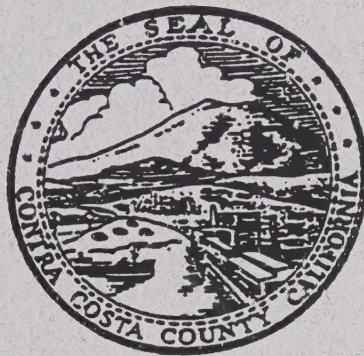


**CONTRA
COSTA
COUNTY**



**FINAL ENVIRONMENTAL IMPACT REPORT
VOLUME 1: COMMENTS ON DRAFT EIR
COWELL RANCH PROJECT GENERAL PLAN
AMENDMENT AND RELATED ACTIONS**

COUNTY FILE #1-92-CO

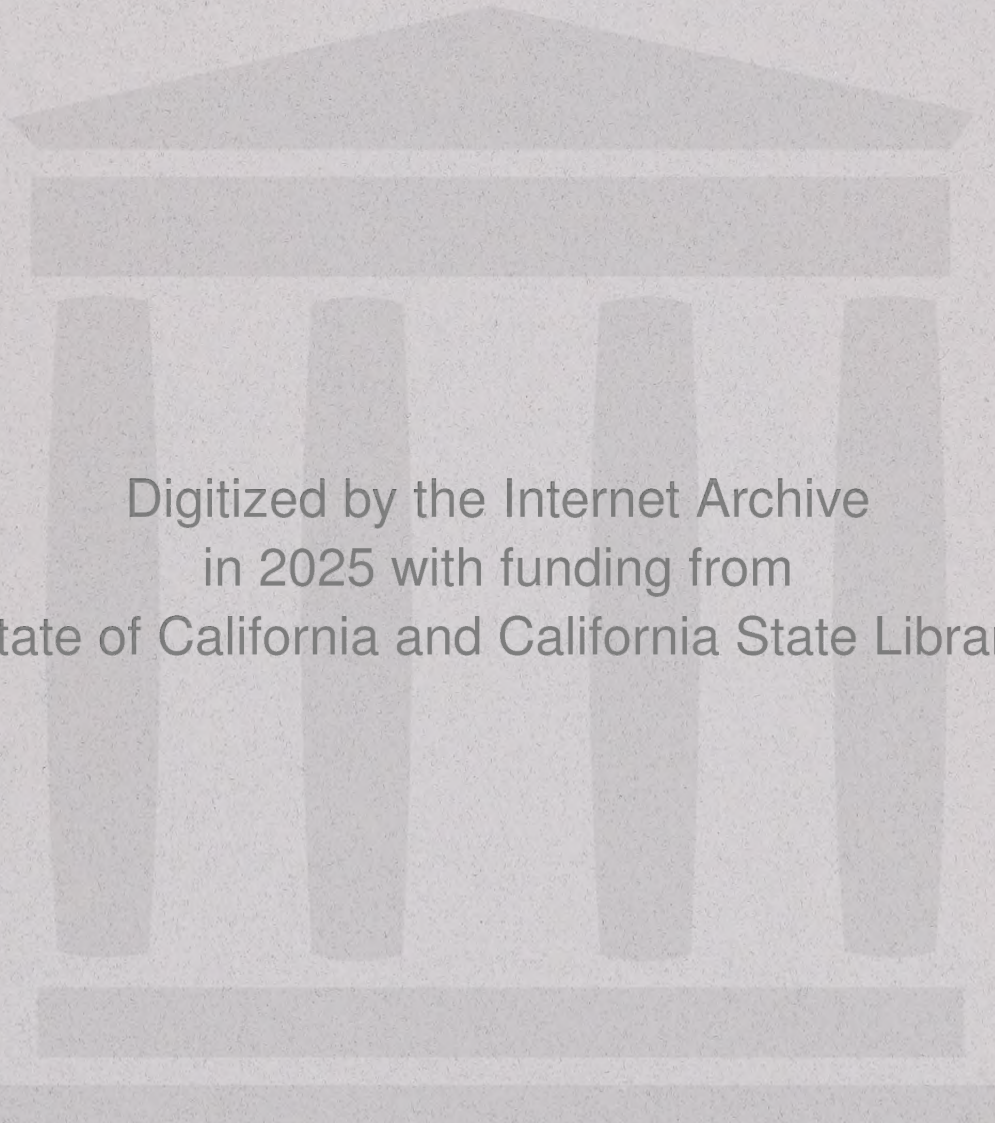
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FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED COWELL RANCH PROJECT

VOLUME 1

COMMENTS ON THE DRAFT EIR

COUNTY FILE # 1-92-CO

STATE CLEARINGHOUSE #93013024

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February 1998

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I. INTRODUCTION

The Final Environmental Impact Report (FEIR) for the proposed Cowell Ranch Project General Plan Amendment and Related Actions consists of three volumes:

- (1) the Draft Environmental Impact Report (Draft EIR), which was distributed for public review and comment on October 18, 1996; and
- (2) a two-volume Final EIR Attachment document of which this document represents **Volume 1**, which presents all comments received during the public review period on the Draft EIR; Volume 2 includes the responses of the EIR preparers to all comments in Volume 1, plus a set of errata incorporating all revisions made to the Draft EIR in response to these comments.

Certification of the Final EIR by the Contra Costa Board of Supervisors must occur prior to any action by the county on the proposed project.

II. COMMENTS ON THE DRAFT EIR

After completion of the Draft EIR, the County of Contra Costa (i.e., the Lead Agency) is required under CEQA guidelines to consult with and obtain comments from other public agencies having jurisdiction by law with respect to the project, and to provide the general public with opportunities to comment on the Draft EIR. The County is also required to respond in writing to substantive environmental points raised in this Draft EIR review and consultation process.

The Draft EIR was distributed for public review and comment on October 18, 1996. The required 45-day public review period on the Draft EIR ended December 2, 1996. The County extended the public review period to March 19, 1997, to allow more time for interested agencies and individuals to prepare written comments.

Comments on the Draft EIR were received in the form of public testimony at Zoning Administrator hearings on the Draft EIR held on November 18, 1996 and December 11, 1996, and letters and memoranda submitted to the County during the public review period. Seventeen people from the community commented at the Zoning Administrator hearings. Eighty-three letters and memoranda were received.

This Comments chapter includes the following subsections:

- A **public hearing comments** section (section II.A), which includes transcripts of the comments made at the Contra Costa County Zoning Administrator hearings held on November 18, 1996 and December 11, 1996. (The responses of the Lead Agency to these comments are included in Final EIR Volume 2.)
- A **written comments** section (section II.B), which includes copies of all 83 letters and memos received during the public review period pertaining to the adequacy of the Draft EIR.

In the subsections that follow, each pertinent comment is coded in the right margin of the transcript, letter or memo. (The responses of the Lead Agency to the various coded comments are included in Final EIR Volume 2.)

II. COMMENTS ON THE DRAFT EIR

The Commission is of the opinion that the Cowell Ranch Project is a large project and that the environmental impacts of the project are significant. The Commission is of the opinion that the project is not in the public interest and that the project should not be approved. The Commission is of the opinion that the project is not in the public interest and that the project should not be approved.

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A. ZONING ADMINISTRATOR PUBLIC HEARING COMMENTS

The transcripts of the November 18, 1996 and December 11, 1996 Zoning Administrator public hearings are included in this section. The Lead Agency's response to substantive comments in the transcripts pertaining to the adequacy of the Draft EIR are included in Final EIR Volume 2. Comments (Volume 1) and responses (Volume 2) are correlated by code numbers added to the margins of the transcripts.

Contra Costa County - Zoning
Administrator Meeting, Monday
18 November 1996 - 1:30 P.M.

DRAFT ENVIRONMENTAL IMPACT REPORT: PUBLIC HEARING:

COWELL RANCH GENERAL PLAN AMENDMENT, REZONING AND RELATED ENTITLEMENTS: County File #1-92-CO., Rezoning #RZ93-3014:

This is a public hearing to consider the adequacy of the Environmental Impact Report (EIR) prepared for the Cowell Ranch General Plan Amendment, rezoning to Planned Unit Development and related project entitlements. The project site consisting of approximately 4,277 acres of the Ranches roughly bounded by Walnut Boulevard on the East, Marsh Creek Road/Camino Diablo on the south, Deer Valley Road on the west and Briones Valley road and Concord Avenue on the north. Approximately 2,185 acres falls on the urban side of the Urban Limit Line and approximately 2,092 acres lie outside of the Urban Limit Line. Urban development is occurring immediately adjacent to the property along Concord Avenue. (JWC)

MR. BRAGDON: Before I open the hearing on the adequacy of the Draft Environmental Impact Report, I want to make two announcements. No. 1 is that I will be keeping the hearing open until at least December 11th. I plan to continue this hearing to Wednesday afternoon at 1:30 in the afternoon on December 11th in the Brentwood City Hall; so, if you do not testify today, you'll have an opportunity to testify that date. Depending on the public's reaction and comments, the public hearing may be closed on December 11th, the oral part of it. It is my intention also to extend the time for written comments to be submitted on the adequacy of the environmental impact report to 5:00 P.M., Thursday, January 9, 1997. So, instead of December 2'd as originally shown in the notice, written comments can be received up until 5:00 P.M., Thursday, January 9th.

With that, I'd like to open the public hearing on the Draft Environmental Impact Report for the Cowell Foundation project. This hearing today is not on whether the project should be approved or disapproved or approved with conditions, I do not make a determination on zoning, project design or anything of that sort. The hearing today is simply: Is this document adequate or what deficiencies should be addressed in a response document.

With that, I'll open the hearing and whoever wishes to speak can. If somebody says something that a previous speaker said and you agree with them, then it's sufficient to say that you agree with the previous speaker.

Again, written comments can be received until January 9th. With that, anyone wishing to speak on this today, please come forward.

DENISE K.H. THOM, 6850 Balfor Road, Brentwood, California. I have a small farm out there. My concern today was with whether or not you were going to have more public meetings on this

1.01

1.01

and whether they were actually going to be held in Brentwood.

MR. BRAGDON: Yes, there will be public meetings—the County—we rarely do this on environmental impact reports; but, because of the interest in the Brentwood area, we will do so; so, there will be a full public hearing on the afternoon of December 11th and you will still be able to submit written comments until 5:00 P.M., on January 9th.

MRS. THOM: Do you have a time for that hearing on December 11th?

MR. BRAGDON: It will be 1:30 in the afternoon in the Brentwood City Hall.

MRS. THOM: Thank you.

MR. BRAGDON: Is there any one else wishing to speak on this matter?

MICHELLE PERRAULT, 2979 Rohrer Drive, Lafayette, California. Before I speak, is the rule if I speak at this one I can also speak at the next one? Before I speak, I want to make sure.

MR. BRAGDON: Actually, the rule depends on how many people speak. If there are 200 at the next meeting, then I probably would want to take new testimony first and so if you wish to wait you can or if you wish to speak today and you get some more ideas, you can either submit them in writing or—

MS. PERRAULT: Well, I'll take my chances. I'm speaking on behalf of the Sierra Club and we will be preparing written comments and possibly also attending the Brentwood hearing. I think it's good that there is going to be another hearing; however, I still think that even that for the size of the project and complexity of it is not adequate; so, I would ask that there be additional hearings not just in Brentwood and at least at a minimum that there be an evening hearing.

This project has large implications for a large sector of the County not just Brentwood, particularly if one takes into consideration the transportation issues and the funding needs and so forth. I think it's quite vast and I say that having just spent two years in a local hearing over a project that was less than 500 acres compared to this one which is way over 4,000, in which to benefit the public, there were actual presentations made on certain sections of the document because of the complexity and I think that would be really quite advisable and that's why I'm saying that even additional hearings are important because that helps isolate out particular issues and go over them in further detail. For example, in that case, there 3 to 4 million cubic yards of remedial grading and here you have 7.5 million cubic yards and not adequately assessed so, we will be discussing this further in our comments; so, I think in terms of the public being able to have some ability to really respond adequately, you need to have more time for the public. We've had 30-days to look at the document; but, that is not enough given the complexity and we have to have certain experts look at different parts of it; so, we will be doing that.

1.02

I would also like to have some information on where the backup documents mentioned in the EIR can be located and specifically the ones referred to in the biological studies. That would be helpful

1.03

to know as soon as possible. I think that's all for now.

↑ 1.03

MR. BRAGDON: Okay, as soon as we've finished this portion of the hearing, unless you're interested in some other item on the agenda, ask Jim Cutler—and I'm asking him now to be sure you get whatever information you need.

As an additional comment, I suspect that there will be many, many, many public hearings in the evening regarding this project. Anyone else wishing to speak regarding the adequacy of the Environmental Impact Report?

MR. TOM MOOERS, 500 Ygnacio Valley Road #250, Walnut Creek, California. I'm the East Bay Field Representative for The Greenbelt Alliance. Thank you for extending the comment period and adding one hearing out in the Brentwood area because this is an enormous project and there will be significant impacts felt throughout the County and I just want to reiterate what the previous speaker said, that it really would be helpful to have more opportunities to look at it at this point in the planning process—to take a stronger look at the Draft EIR especially in the evening and in different geographic locations because there are issues here that affect everyone in the County such as allocation of transportation dollars, closing Marsh Creek Road; impacts on agriculture; impacts on housing markets in places like Antioch and Brentwood and beyond; so, I would like to encourage you also to expand the opportunity for public involvement in this stage of the processing.

1.04

MR. MITCH OSHINSKY, 708 Third Street, Brentwood, California. I'm the Community Development Director for the City of Brentwood and, as you know, we sent a letter to Supervisor Torlakson and Supervisor Elect Cancimella. Our City Council has met and discussed the upcoming Cowell project and they strongly felt that a hearing should be provided in Brentwood and they would prefer that an evening time be set to appreciate your going forward and setting a meeting in Brentwood during the day; but, it almost defeats the purpose because the majority of the residents who would be interested work during the day outside the city; so, in order to give the public an opportunity it would really be best to have that meeting in the evening; so, our best times for us would be 16th or 19th at 7:30 P.M., and that's at the request of our City Council.

1.05

MR. BRAGDON: Which date? 16th?

MR. OSHINSKY: Sixteenth or 19th.

MR. BRAGDON: Thank you. Any one else wishing to speak on this matter? Please come forward. If you haven't filled out a green slip, please do so for the record.

BRAD OLSON, 2950 Peralta Oaks Court, Oakland, California. I'm with the East Bay Regional Park District. I'm here to provide preliminary comments on the Draft EIR today. We will also be submitting comments in writing and I'd also like to thank you for the additional opportunity to have additional hearings in Brentwood. I know that this project is of great interest to the park district and we'd like to have the opportunity to find out what the local community is also interested in so we appreciate that.

As you're aware, the Regional Park District has a lot of park facilities in the geographic region of this proposed development including Round Valley Regional Park, Black Diamond Mines Regional Preserve, Contra Loma Regional Park, Morgan Territory Regional Park, the developing Vasco Caves Regional Preserve and our construction of the Round Valley to Big Break along Marsh Creek.

We have just begun our review of the EIR and identified several concerns to the district about project related impacts. First, traffic and circulation. We've begun reviewing the traffic analysis and are very concerned about the effects of this project on several of the roads and key intersections in the area in terms of existing levels of service on those roadways and intersections and increased project generated traffic and how it effects parks.

1.06

For example, our existing staging area to Round Valley is right off of Marsh Creek Road and I've been told that currently, there are existing conditions that may make access to that staging area less than desirable during morning and evening commute times and we're very concerned that with the project that the safety and access to those parks will be adversely affected by this project.

Also, Deer Valley Road is a major connector between Round Valley and Black Diamond Mines and, again, we see that the level service is going down and the safety risk going up on this road. Vasco Road is the only access to Vasco Caves and also we're concerned that the EIR did not really address the impacts to Morgan Territory Road since we believe that as Vasco Road and the Highway #4 improvements reach their capacity, that commuters from this area will be seeking alternative routes going past several adeny areas in the park's jurisdiction.

1.07

1.08

The EIR also identifies impacts to Round Valley and Morgan Territory from construction of this project and those are visual impacts I'm referring to. In reviewing the Draft document, there are cut and fill slopes as much as 70 to 80-ft. We believe these could have pretty serious impact to park users. As you know, this area is fairly undeveloped right now and this project could result in a fundamental change in the character of the area and in the use currently enjoyed by the park users.

1.09

The project also seems to have substantial impacts to Marsh Creek besides our proposed trail which would run along Marsh Creek, we're also concerned about project induced flooding by this project as well as degradation of water quality and we'd like to have the opportunity to review this specific measures that are proposed for correcting these situations. Currently, this information is not contained in the EIR and suggests that such a mitigation would be worked out with the County and we'd also like to be a party to that having a vested interest in that trail.

1.10

Public facilities and services. We believe that the development will also result in an increased demand for additional park facilities and will also place additional users in these parks and to that end, the environmental document does not adequately address the needs for police, fire, maintenance and interpreter staff for these regional parks.

1.11

Biological resources are also another concern to the district. As you're probably aware, we have

1.12

existing populations of the San Joaquin Kit Fox at Round Valley and at Black Diamond Mines and this area is a major migration route between those two parks and we're very concerned about potential effects to endangered species as a result of this project and in particular the San Joaquin Kit Fox.

1.12

In reviewing the wetlands section, there also seems to be what I would call—the impacts to wetlands has not been adequately evaluated. There are areas that are called grasslands that by their very description in the EIR they appear to be wetlands and particularly, we're concerned that some of the areas that are described as grasslands are actually vernal pools and that the EIR may considerably understate the impacts to vernal pools.

1.13

Getting back to kit foxes for a minute, besides the fragmentation of habitat, we're also concerned about the construction of new roadways and increased traffic volumes and the potential to result in increased road kills to the San Joaquin Kit Fox. The Draft EIR mentions that the section of Marsh Creek Road—a 30 to 40-ft., section would be closed minimizing impacts to road killed kit foxes; but, at the same time, it also proposing roadways that are considerably wider, as much as 130-ft., wide, which I think will greatly increase the impacts and potential for road kills.

1.12

In addition, it is my understanding—that is the policy of the Fish & Wild Life Service and the Department of Fish & Game to require a 3 - 1 mitigation ratio for any loss of potential habitat. To that end, the EIR needs to consider a larger mitigation area beyond the existing lands that are being set aside at Cowell Ranch.

1.14

And, finally, the District has just released a new draft master plan which discusses our existing and future needs for park and trail facilities and we believe that this document needs to be addressed in the EIR; also, that it needs to address the increased demand on park infrastructure and natural resources and needs to propose mitigation measures for those impacts. Thank you very much and we will be submitting written comments.

1.15

MR. BRAGDON: Thank you. Anyone else wishing to speak on this matter?

JOHN MACKENZIE, 3600 Ridgewood Way, Sacramento, California. I'm President of the John Marsh Historic Trust, seated here in Contra Costa County. We want to thank you, Mr. Chairman for the extension of the comment period and the hearing. That will be most helpful, I'm sure.

To explain the exception we are taking in a subside way to one piece of this: The John Marsh Stone house is State property owned by the Department of Parks and Recreation. That department is now in the midst of the business of classifying that place as a State Historic Park. That is expected to go before the Park Commission some time in the Spring, March, April, somewhere in there. With that in mind—and by the way, this is a small piece of property, somewhere in the neighborhood of 14 acres. The trust takes some exception to the plan as described to us previously to have one of their thoroughfares take a piece out of that 14 acres. We take exception to that because this would, in fact, affect both the operating size of the property, compromise it quite seriously as a matter of fact, and also have serious effects on the operation of the park once it's put together.

1.16

In my conversations with the Cowell property people, however, we think there may be some resolution and should that occur, we would be inclined to think favorably about that and come to you later with that with a caveat and that caveat being that the grave sites and the religious sites of the people who lived there before John Marsh took up residence would be carefully honored and observed, and thank you, Sir.

1.16

LAURIE SCHUYLER, 2850 Loma Vista Avenue, Concord, California. I've prepared four pages of written comments so I'm just going to summarize very briefly. The EIR is inadequate for the following reasons:

The traffic model is faulty because it is based on unrealistic assumptions about job creations to hide the real traffic impacts of the project. The job projections are dependent on a new Junior College even though prospects for funding it are remote especially with the demise of Measure D and the fact that there is already another community college in mind for funding, it is not reasonable to assume it will be in place by the year 2010.

1.17

The Draft EIR admits an analysis of the Kirker Pass-Ygnacio Road corridor even though it acknowledges that this corridor is frequently used to bypass other congested routes. Traffic on this corridor is expected to double by the year 2010, In the year 2010, the traffic analysis predicts that with the project, west-bound morning peak traffic on Highway #4 will be increased by more than 200 cars and Vasco Road will only gain 4 cars. This defies basic common sense. The roadways built with East County Regional Impact Fees will be filled to capacity as soon as they are built if they don't have sufficient capacity to accommodate the traffic generated from the residential units that paid for them. This will put a major damper on East County job growth and this isn't addressed in the EIR.

1.18

1.19

The traffic model is also built on unrealistic roadway improvement assumptions for the year 2010 and 2026. It includes projects which don't currently have an identified funding source to complete them. The short falls on these projects are in the range of hundreds of millions of dollars. Many more roadways and intersections will be significantly impacted when jobs and the roadway network don't materialize. Therefore, the traffic analysis should be redone using more realistic assumptions.

1.20

Also, I'd like to submit my 4 pages of comments for the record. (Submitted and are on file).

MR. BRAGDON: Thank you very much. Is there anyone else wishing to speak on this matter? Seeing no one rising, the public hearing will be continued to 1:30 P.M., on December 11, 1996 at the Brentwood City Hall and we'll see what happens at that time. The public hearing portion may be closed at that time; however, written comments can be submitted up until 5:00 P.M., on January 9, 1997.

So, we will see you all on the 11th of December.

Wednesday, December 11, 1996, 1:30 P.M.

The Council Chambers, City of Brentwood

DRAFT ENVIRONMENTAL IMPACT REPORT: PUBLIC HEARING

COWELL RANCH GENERAL PLAN AMENDMENT, REZONING AND RELATED ENTITLEMENTS, County File #1-92-CO, REZONING #RZ933014: This project is for the Cowell Ranch General Plan Amendment, rezoning to Planned Unit Development and related project entitlements. The project site, consisting of approximately 4,277 acres of the Ranch on the west, and Briones Valley Road and Concord Avenue on the north. Approximately 2,185 acres fall on the urban side of the Urban Limit Line and approximately 2,092 acres lie outside the Urban Limit Line. Urban development is occurring immediately adjacent to the property along Concord Avenue.

MR. ZAHN: My name is Charles Zahn I'm Assistant Director of the Contra Costa County Community Development Department, but more to the point, I'm one of the people in the Department who is authorized to conduct a Zoning Investigator hearing. There will be a public hearing today on the Draft Environmental Impact Report (DEIR) for the Cowell Ranch General Plan, Rezoning and Related Entitlements project, this is County File #1-92-CO, a general plan amendment, Rezoning File is #RZ933014. I'm going to read what's on the agenda for the record (read description of project listed above).

The project, as proposed by the proponent, would result in about 5,226 housing units, business parks, commercial uses, civic and public uses, park recreation open space on approximately half of the site and the other site is proposed to be rezoned to the A-2 zoning district. Now that's the project as proposed by the applicant.

What we're concerned with today is the adequacy of the Environmental Impact Report that's being drafted for that project. In other words, we're concerned today with the adequacy of this document. Does it properly identify the impacts? Does it adequately address the potential mitigation measures as described the alternatives. Very shortly Jim Cutler will be giving you a summation of the process that will result in the Final Environmental Impact Report and also the process that will be used here in the actual project. This is a hearing to take in comments on the Draft Environmental Impact Report, not to give an explanation of the project. Very shortly I will ask for those who want to give comments to give me filled out slips-- the particular slips we're using today are those used by the City of Brentwood, don't worry about that, simply fill out the slip and give it to me. Jim would you like to address the processes.

MR. JIM CUTLER: Thank you Mr. Zahn. As is indicated and I'm going to go over this again in case there's some confusion--the press reports I've seen weren't totaling clear on this. The hearing both this afternoon, and we will be recommending to Mr. Zahn that he

continue this hearing to a 7:00 tonight hearing--same place--in case people want to testify tonight, that it is strictly on the adequacy of the Environmental Impact Report it isn't on the merits of the project--whether you like it, whether you don't like it, those are issues that will be dealt with at public hearings when we get around to having them on the merits of applications. That means public hearings before the County Planning Commission probably the East County Regional Planning Commission and ultimately the Board of Supervisors. You'll find that in this process there will also probably be hearings before the City of Brentwood, City Council, and probably their Planning Commission also. So there will be a range of public hearings dealing with the merits of the project and this is a procedural step along the way. For those of you that aren't aware-- there is no requirement in the California Environmental Quality Act(CEQA) which is the legal act that causes us to prepare Environmental Impact Reports for a public hearing. As a matter of practice and policy, the Board of Supervisor's has established that we would do such and we would have public hearings on EIR's. We've already had one in Martinez a couple of weeks ago and at the request of the City of Brentwood we've extended the hearing out to this location, both this afternoon and we'll be recommending it be continued tonight.

Anyway--the purpose is for people to give testimony on the Environmental Impact Report, it helps if you've read it to give comment on it. We will not be responding to any questions today cause that isn't the purpose. This is a procedural hearing to get your input on the adequacy of the document-- those kinds of responses would come at a later time. We are taping the proceedings so we can do verbatim transcripts of what is said here and the speaker card identification is both to put you on a mailing list for future discussions and to make sure that we have you correctly noticed when we do our minutes on this particular meeting. When we have all of the comments that we receive both at the public hearings and in writing to the Community Development Department and that's listed on the notice that many of you have that tells you where to send them--notice the comments have to be into our office at the County Community Development, no later than Thursday, January 9th at 5:pm and so that's the time-line for comments both here today and in written form. What staff is recommending is at the end of tonight's session that the Zoning Administrator close the oral portion of the public hearing process and then it will be written comments from that point on. When we have all of those comments and when we have the verbatim minutes of this particular proceeding, they will be passed on to the County's Environmental Consultant and their obligated to respond to all the Environmental issues or impacts that are raised in terms of the process. They will not be responding--if you don't like the project or you have concerns on traffic or things like that. The response to those kinds of comments is usually comment noted or opinion noted that isn't the purpose of today's proceedings.

In any case, sometime after January 9th when the closure date of comments is in, a Final Draft Environmental Impact Report will be put together and a County Zoning Administrator person will consider that at a close for decision hearing and make a recommendation to

the Board of Supervisors and other agencies on the adequacy of the Environmental Impact Report.

Once that's done, then we're down to the real issues. Should Cowell Ranch be amended and placed in the County General Plan? Should there be a rezoning? Should there be development applications considered? That happens next year and I couldn't tell you when the timing of preparing this Final Response to Comment document will occur. The amount of time it will take will depend on the amount of comments received, quite frankly. We've received a fair number so far and we're anticipating a certain number more. So as I've said, the hearings on the merits of the project be before the County Planning Commission probably in some kind of consultation with the East County Regional Planning Commission though that decision hasn't been firmed up yet and then the County Board of Supervisors. So, hopefully that clarifies what we're going to do here today and the process from that point on. And with that, were going to ask the Zoning Administrator to open the hearing and at the end of this afternoons session continue it until tonight at 7 o'clock, here in this room.

MR. ZAHN: Thank you Jim. The only thing I can add to that is that an Environmental Impact Report is a disclosure document it is neither for nor against the project. It is intended to disclose impacts and possible ways to alleviate those impacts. I have two cards that have been handed in. It is our custom to allow people representing public agencies to speak first. Is there anyone here who's intending to speak today who's representing a governmental body. I see no hands, therefore, let me ask for people who have submitted cards to come up. I believe John Mass was first. John.

Mr. JOHN MASS: Thank you and good afternoon, Mr. Cutler, Mr. Zahn and staff. My name is John Mass and I've been a long time resident of east Contra Costa for close to 60 years. My family has been in the community for over 100 years. I thought I was going to speak on the project as a whole, but I'll just zero in on the environmental areas that I'm familiar with. Which one is a real concern, because I was on part of Transplan, and that is the traffic area in regards to how it will impact the community. I feel that the report is inadequate, it doesn't fully discuss the benefits of the impact it would have in our community and that is contributing to the Delta Expressway. Without a community and other homes being built in east county it will be a long time to see it. We've waited over 30 years to see BART in Pittsburg and we're hoping to see it in Brentwood as the different hardware in front of this building indicate. My father was part of discussions when BART was being voted on by the Board of Supervisors and Joe Silva which was a family friend spent many hours at our dinner table and our home. So I'd like to see the Delta Expressway because homes are going to continue being built and we should accelerate the monies coming into it. There's other things I would like to say other than I do support it and at a later date I will comment on that orally and also in writing. But right now today, is in the area of the water, whether it would be beneficial in terms in time a regional sewer

2.01

plant that could be possibly conceived and also the areas of the environment. But today, I'll just discuss the Delta expressway. Thank you.

2.01

MR. ZAHN: Thank you. The next card I have is for Mr. Greg Feere am I pronouncing your name correct?

MR. GREG FEERE: Ah that's close -- It's Feere

MR. ZAHN: Feere.

MR. GREG FEERE: Thank you very much. Kind of like John, I'm a long time resident of Contra Costa County my family moved to Concord in 1952 and we've been here just about ever since. But the one area that I'd like to focus on that's really not addressed adequately in the EIR and in one seemed to be a selling point in this major project is jobs. Potentially, the job situation for this project could be an economic disaster for Contra Costa County. What happens on these major projects is they come to the community and everybody hears about how great the job opportunities and what's going to happen. But then also they don't look and see what the potential disasters and for very negative social economic impact to the community as well. The County has done a study "The Impact of the Out of State Out of Area Workers" where, you know, where the impacts that were negative were loud and clear. Burdens to education. The burden that the County and the local taxpayers had to pay for health care. There was a loss of revenue and jobs for the local business and tax base and the money that should have been brought into the community was syphoned off and brought into other states in that area. So this project, as it currently stands, has no guarantees what-so-ever for having one job opportunity for Brentwood citizens or citizens from eastern Contra Costa--where I live in Antioch. And so I think those areas really need to be addressed in the fullest. There also needs to be an issue especially if their going to talk about jobs or opportunities for women, minorities and economically disadvantage. The issue always comes up about the construction jobs. Well, there's only one construction job--well actually there's one construction job that represents three secondary jobs in the market place. And if these jobs aren't addressed and covered so that, you know, people not only receive a living wage with health benefits and a pension to retire with dignity and there's not some guarantees that their local economy and their local work force is going to be benefited then I don't see any reason for this project to go forward one ounce. I would hope that the--and you know the feelings that I've read from Councilman Michael McPoland, here in Brentwood, fit the picture perfectly. He wants to see businesses and business in job training and also apprenticeships because currently that's probably one of the biggest points that could be a real positive for the project but as it stands it's not addressed adequately in the EIR so we don't know if it's going to be a positive social economic impacts or a negative social economic impact so that still needs to be addressed before this project moves forward. Thank you.

2.02

MR. ZAHN: Thank you. Those are the two cards (pause) next card is from Sherri Anderson.

MS. SHERRI ANDERSON: Good afternoon and thank you for this opportunity. I'm a representative of the East County Regional Planning Commission and there are two points that I would like to make very strongly today. Number one, is Mr. Cutler's word "probably" having hearing with East County Planning Commission. I've had phone calls from other commissioners today who can't make it but can possibly make it tonight and their general feeling is, strike the word probably and say "will" have a hearing either joint or otherwise with the East County Regional Planning Commission so we can have all of our comments addressed. Number 2, I know it's not time for Conditions of Approval but I'd like to make a strong point that if possible to make a condition of approval that say 60% or 50% of the business park be in place before they're allowed to put the homes in place. Thank you.

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MR. ZAHN: Thank you. Next I have a card for, and I hope I pronounce your name correctly, and if I'm not I hope you correct me. Al Courchesne.

MR. AL COURCHESNE: My name is Al Courchesne and I'm a farmer in the Ag Core and I don't think this EIR says anything about the impacts that a town population of 12,000 people with all of the new highways and other developments that would come along with such a town-- I don't think that this EIR has addressed the impact it will have on the agriculture and the adjacent area. By adjacent area I'm referring to the 10,000 or 11,000 acres of prime class 1 soil farmland which is currently designated the Agricultural Core of Contra Costa County. I think that such a project will have a very strong and devastating affect on the agriculture of the region--I don't think that has been addressed by this EIR report.

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MR. ZAHN: Thank you. My next card is from Tom Smith.

MR. TOM SMITH: I'm Tom Smith and landowner here in Brentwood and the only thing I really know about the report is what I seen in Contra Costa Times where they're going to close down Marsh Creek Road as it turns around where Cowell Ranch and also Camino Diablo Road. Now, that road is heavily traveled and has any adjustments, or how do they plan--they can't cut both roads off at one time. Have they put a leader across the road to see how far--how many cars travel on that road per day? I come out--I live in Concord and I'm out here in Brentwood everyday and that road is totally traveled. And what I've seen in Contra Costa Time is they're going to take where Marsh Creek turns in coming into Brentwood and shut that down and shut Camino Diablo down so anybody going to work from Discovery Bay they'd have to go to 4 and go in that way or go up Vasco Road and go in Livermore way. That was my main concern there.

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MR. ZAHN: Thank you. Before future hearings you may want to read the--well the Environmental Impact Report as such, but particularly the traffic chapter. There are copies at the libraries. Certainly Brentwood, Concord also has one do they not?

MR. CUTLER: Pleasant Hill.

MR. ZAHN: Pleasant Hill--O.k. Thank you.

MR. ZAHN: My next card is from Tom Anderson.

MR. TOM ANDERSON: Hello gentleman. I own Sandhill Ranch and I've been out here since 1973--that's a motorcycle park and a modified midgets activity. I just want you guys to be aware of that and if you're not going to be happy with us being there then put us on the purchase price. Thank you.

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MR. ZAHN: Thank you. That's the last card I have. Is there anyone else wishing to make comments on the Draft Environmental Impact Report. For the rest of you, as Jim has noted, we'll continue this hearing to tonight additional testimony for those of you who haven't spoken can be given. Written testimony, as Jim also explained, can be submitted as late as-- what was it the 9th of next month--

MR. CUTLER: In our office at 5:pm.

MR. ZAHN: In our office at 5:0'clock and of course you can always participate in the hearings of the project itself. For those of you who may not be on the mailing list--after this is over if you would give your names and addresses to Audrey Woods, she will put you on the mailing list.

MR. CUTLER: Mr. Zahn, I think for the record, would you please officially continue this meeting until tonight, here.

MR. ZAHN: A gentleman just picked up a slip. Do you wish to make comments today sir?

MR. JOHN CHAPMAN: yes.

MR. ZAHN: O.K., then you will be the last on the list.

MR. JOHN CHAPMAN: Good afternoon, my name is John Chapman I'm a resident of Contra Costa County. I'm here speaking on behalf of myself. I will be submitting long and lengthy detail written comments on the DEIR and the General Plan Amendment on the proposed Cowell Ranch. I will confine my comments today to just a few of the many points that will appear in my written letter.

The goals are clear, the Cowell Foundation wants to convert it's land into cash for millions of dollars so it can pursue its philanthropic goals. The jurisdiction of Contra Costa and Brentwood want substantial short term cash flows to help balance their budgets and provide for their utopian schemes. While the goals may be (*inaudible word sounds like: laudable*), the purposed actions plan for a tragedy for the people of east bay. The Cowell Ranch will cause massive congestion on area roads, the decline in air quality that causes cancer and other diseases, substantial environment damage, a loss of precious agricultural resources and decline in quality of life for thousands in this valley. The recent issuance of the DEIR highlights the tragedy of the system of the public planning process. The arena becomes adversarial, the rules are set by lawyers, the battles are tactile rod and substantive, the real issues are seldom discussed. We're driven by greed and self interest and we're trapped in the corridor of predefined planning process. Right across the street is the promised land of regional corporation and planning where we could build sustainable future for everyone in the east bay and not just for the privileged few. We're an intelligent race, yet we seem incapable of taking a simple step towards cooperative change that benefits us all for long term.

Brentwood is a great city it contains a wonderful balance of urban and rural. Properly planned roads could maintain that balance in a sustainable fashion. For the people of Brentwood this is an opportunity lost. Development in this region could be done sensitively and cooperatively to preserve that balance. You could save much of what is fine in this community. At present you are allowing outsiders to destroy it forever. Is this really what you want to do, the people of Brentwood?

I make the following specific comments on the DEIR and the proposed General Plan Amendment. Within the narrow confines of this unfortunate planning process. In its rush to approve the Cowell Ranch project, the County has prepared a Draft EIR together with a General Plan Amendment and rezoning and related entitlements that are in numerous instances inadequate as the scope, absent key information, analysis, and erroneous in comment. If approved, these documents would be a violation of CEQA and CEQA guidelines, the statute requirements for general and specific plan found in the State Planning Zone Law and most importantly, the Contra Costa Board of Supervisors' adopted principals and guidelines dated April 28, 1992. At page 5-1 of the DEIR that refers to the basic objectives of the Cowell Ranch project, however, the DEIR does not meet these key objectives in several respects, for example, and principal number one reads, Cowell Ranch should be an exemplary in its treatment of environmental issues. Principal number four states, that development of the Cowell Ranch should improve the quality of life for local residents. Principal five states that the planning and development of the Cowell Ranch should be (*inaudible, sounds like: intermilly*) consistent with the general goals and policies of the County General Plan and Measure C, the Urban Limit Line approved in 1990. The DEIR (*inaudible word*) deviates from these Cowell Ranch project objectives.

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I wish to talk about agriculture first. The DEIR on page 4B-7 states that the proposed project contains 1,112 acres of prime soils class 1 and class 2. That's 26% of the total acreage. If the project goes forward as described in the documents, these soils will effectively be lost to the type of agriculture that prime soils can produce. Crops like cherries, apples, walnuts, strawberries, sweet corn, tomatoes and the like. At several places in the Draft document—the draft document—attempts are made to minimize the loss of agricultural land by telling readers that the acreage lost is far less. The fact remains that 1,112 acres of prime soils will be loss. The fact that the owner has not bothered to farm much of these prime lands, in the knowledge that it is planned to develop in the future, does not detract from the fact these lands are prime farm soils and as such they have a considerable value to a prospective agricultural buyer. The impacts on the loss of the farmlands is understated and minimized in the DEIR. Further analysis and disclosure is required. The DEIR claims that the agricultural land that would be lost to the development of the Cowell Ranch is 1% of Contra Costa cropland based on 1992 numbers. The DEIR further claims that 2% of the land designated for agricultural use will be lost to the Ranch. First, these numbers are based on old data. The correct numbers are higher and must be disclosed. Second, the more relative statistic absent in this report is what the percentage of farmland lost would be in this east county region where the project is situated. The DEIR provides an incomplete and inadequate analysis of the impacts of the project on the adjacent agricultural core prime farm land some 11,000 acres abutting the project on the north and east which contains some of the state's finest farmland. For example, the proposed project would consist of a new city that would be home to some 12,000 people and employ a further 6,000 people. But their impacts on the Ag Core have not been properly evaluated. The route 4 bypass will bring thousands of others through the project area and the Ag Core. Major services to the project such as sewer lines would come through the Ag Core. The DEIR materially and significantly understates the impacts on the project and the most important agricultural resource in the region. In Contra Costa County agriculture is a 80 million dollar industry and employs some 4,000 people and the most important center lies right here adjacent to the Cowell Ranch. Measure C was passed by the voters of Contra Costa County to establish a fixed urban limit line and to establish boundaries of the Ag Preserve Core. An area classified as great importance to the east county economy and the balance between urban and rural uses. The Cowell Project intends to develop land from within the Ag Core and develop prime farmland outside of the Urban Limit Line. Such actions would be illegal and in direct conflict with the Contra Costa General Plan.

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I now wish to address jobs and housing. The DEIR, page 4-A makes a bold claim with respects to the jobs/housing ratio and claims that phase one of the project will deliver by 2010 1,868 residences and 5,485 jobs on 1.4 million square feet of business and commercial space. The DEIR claims that the project will improve the balance of jobs/housing in Brentwood area. And it claims that this would be a potentially beneficial impact. This is one of several inaccurate descriptions of the project's alleged benefits found in the DEIR. There is no mechanism in the DEIR to insure that the ongoing

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proportional rate of housing and job creation within the project takes place both during construction and at buildout and this fact is dismissed as less than significant. It is entirely possible that the project could build its homes but be unable to create the matching jobs. If this were to occur, the environment impact on the project would be significantly greater. At table 24 the prediction by 2010 that 92% of outward a.m. vehicle trips from the project would be within the east county area within about a 12 mile range of Cowell Ranch, is ridiculous. The table shows only 8% of those vehicle trips would go to central Contra Costa County, other parts of the bay area, or to Stockton/Tracy in the central valley. Business parks in the bay area typically employ people from a wide range and geographical spread. People are employed where their jobs match their skills. Often more than 12 miles away. Many families of Cowell will have two family members working. One of which might be able to be employed in the area, but the others almost certainly won't. The DEIR throughout is self contradicting. The basic theme is that 5,485 jobs will be created between commencement of the project—at the start, which could be 1999 or later and the completion of phase I in 2010. On page 4-C-52, for example, the DEIR says that delays in road buildings could cause significant delays in building employment centers at East Creekside in East Village and in particular the bypass won't be completed until 2006 or 2010. And the DEIR also says that in the absence of excellent regional access to the project the ability of the project proponent or any developer to attract significant jobs (*inaudible phrase, sounds like: producing to the 19__*) is very limited. If the Bypass is not completed by 2006 at the earliest, it is only logical to conclude that the Cowell Ranch cannot realistically claim that it will attract 5,485 jobs by 2010. The DEIR overestimates the percentage of residence who work the job centers at the project in the local area. Further, environmental analysis is required to correctly show the impacts of a more realistic jobs/housing ratio on traffic congestion and the related impacts including but not limited to air pollution, energy, noise and emergency services.

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I am now going to address transportation. Transportation of people, goods and services associated with this potential project will have a major impact on the environment and the quality of life of people in this region. The DEIR and the east county traffic travel model substantially undercount the number of vehicle trips that will result from the Cowell Ranch project and underestimate the length and time of vehicle trips generated by the project. Although not a complete list, among the reasons for this are the following:

- A. Erroneous overstatement of the number of local jobs that will be created. Erroneous understate of the number residents that will be employed out of the local area and erroneous understatement of the number of residence outside of east county that will fill the jobs in the Brentwood area.
- B. The traffic impacts of the Community College especially in the early p.m. hours are not fully accounted for.

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C. The assumption of numerous new or improved roadways and intersections which are infeasible. Many of these road projects are infeasible because there is either little or no identifiable funding and/or an unwillingness by one or more jurisdictions to make that improvement. The enormous costs are not disclosed nor are the common grade of sources of funding. This information is probably absent because there is no cost estimates and there are no realistic sources of funding. One thing is clear, significant federal and state funding for these kinds of projects in east county in today's political and economic climate are not a realistic possibility. There are also inconsistency between the east county traffic model and the County Contra Costa traffic model. You do not have to be a rocket scientist to understand the underlying flaws in the transportation section. Table 20 speaks of some 160,000 new people in east county by 2010. I'll repeat that, 160,000 new people by 2010. Think of the jams on highway 4 now and on Vasco Road and think of 160,00 more people and the few road improvements we have funding for. It is easy to see why these roads will become parking lots for hours on end, everyday. Is this really what the people of Brentwood want? Are you, the politicians and planners going to sentence these people to that kind of fate?

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The project will give rise to several roads and intersections at the level of service F. Because you can not fill roads beyond 100% capacity, the times for F will be stretched out for several hours every morning and every evening at rush hour. Result in adverse affects on the environment, agriculture, human health, etc., have not been properly analyzed evaluated and disclosed in the DEIR. There are many references to performance standards. Because these performance standards are not enforceable and because they are based on erroneous traffic model claims of a less than significant impact are invalid and forcible standards such as those in the Dougherty Valley settlement agreement need to be documented. The DEIR erroneously states that TDM's could have little or no reduction on traffic impact. People forget that large sectors of our population cannot drive, the elderly, the young and the disabled. They're left isolated and lonely, deprived of a reasonable opportunity to be active or working residents. These peoples needs could be accommodated and TDM's could have a significant impact if the project was properly designed. Redesign the project and provide a project alternative that meets the needs of this sizeable sector of the population. There are plenty of examples around the country of this type of urban design. There are plenty of books—you don't have to go far to find them.

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There are currently approximately 110,000 monthly car trips up Marsh Creek Road through to central Contra Costa. With 160,000 new people you can expect that to increase to somewhere around 300,000 monthly car trips. If Marsh Creek Road is then closed, those cars will have to be diverted onto some other roads. The environmental impact of these diversions onto other roads is significant and is not fully disclosed in the EIR. Ygnacio Valley Road and Kirker Pass have incorrectly been excluded from the traffic study.

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Finally, their whole series of more generally questions that have not been addressed. How can jobs reasonably expected to come first when the impact fees needed to build infrastructure necessary to attract jobs will be generated from the residential component. If the jobs and the intersections are clogged LOS 5, LOS F as projections indicate and the revised projections will further indicate, won't this reduce the attractiveness of this area for locating jobs and is this factored into the job assumptions underlying traffic model.

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In conclusion, the east county traffic model and the whole transportation section is flawed throughout, that it is based on unrealistic and erroneous assumptions. This whole section needs to be rewritten to reflect more realistic traffic patterns. From these revised patterns of transportation we may be able to see what makes--what a realistic environment impact will be.

There are many other sections on the EIR which I'm not going to comment on today, but will come in my written comments. But I'd like to make two final statements. The first is about the subject of project alternatives. Other than the preferred alternative there's no other realistic alternative except the no alternative project. An alternative that I feel would be appropriate to include would be an alternative that properly protects and preserves farmland. Such an alternative could allow the Cowell Foundation to sell off its land as protected farmland and get a good price because ag land carries high values. The remaining lands within the County urban boundary could then be part of either a land swap or a smaller more compact development with less damaging environmental consequences and closer to the City of Brentwood. Such proposal together with a Brentwood urban growth boundary could allow Cowell to come close to realizing maximum values for its land and provide for reasonable growth opportunities for Brentwood while protecting neighboring agriculture.

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Second, I want like to talk about reliance on future studies. The DEIR improperly relies on future studies to mitigate environmental impacts below a level of significance without any evidence that such studies or plans will identify feasible mitigation measures. As a result of this reliance on future studies the DEIR fails to analyze and include mitigation measures to mitigate the significant adverse impacts of the project. Here are just a couple of examples to illustrate this point. First, the DEIR is unable to identify a long term supplier and source of water. It says at page 4F-10 the long term water supply is dependent on *Phase II, East County Water Supply Management Study* currently being prepared to recommend alternatives for providing cost affective and reliable water supplies. In this example, the reader of the DEIR is unable to determine, (1) significant adverse environmental affect on the water resources of the region because the long time supplier is unknown, (2) impacts of potential diversion of additional sources of water supply, (3) impacts resulting from the operation of additional water supply facilities and infrastructure necessary to provide the water to the development. With good reason, conditions for the 21st century community specifically states that new projects must insure (*inaudible, sounds like: particle or potable*) water supplies are sufficient in quantity and quality to provide for

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domestic consumption and fire protection. It doesn't do that. A second example is sewer service on page 4F-41-42, the DEIR points out that the City of Brentwood cannot currently accept the waste water that will be generated from the project and the City of Brentwood is currently reviewing an interim solution involving expansion of the existing treatment plant and later in addressing a long term sewer service the DEIR states that the City of Brentwood must implement a long term solution by 2003. There is no assured supplier of sewer service and as such the same (*inaudible word*) as for water applies here. I took the trouble to look at recent case law involving judgments where no provider of a particular service such as water or sewage is identified. Each and every single one has ruled that the DEIR was inadequate and insufficient because of this fact. In one case that may be in all our memories occurred right here in superior court in Contra Costa, which involved a lawsuit between EBMUD and Contra Costa County over the Dougherty Valley.

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There is plenty wrong with the DEIR. I could go on for hours but I will spare you that. In conclusion, I will say this--this hearing is about the adequacy of the DEIR and the proposed general plan amendment a narrow corridor. What is being completely circumvented in this discussion is what is good for Brentwood, what is good for the people of east county and the east bay region as a whole. The community has been passed and excluded from the debates. The Cowell Foundation and the County have bypassed the (*inaudible, sounds like: committee or community*) and are trying to thrust a bad project down everybody's throat. The people of Contra Costa are smarter than you give them credit for. It doesn't work to simply thrust globules of money in all directions that are visible to the politicians. It used to be done that way, but it its not done that way anymore. The citizens of Contra Costa want a good long term planning exercise that will make the whole community strong, that will protect our health and will protect our environment. Until the Cowell project meets these requirements and properly involves the community in the planning process rather than ramming it down their throats it will not succeed. Thank you.

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MR. ZAHN: Thank you Mr. Chapman. Mr. Chapman did you make out a slip.

MR. JOHN CHAPMAN: Sure.

MR. ZAHN: Thank you. Mr. Wilson your up.

MR. ROGER WILSON: I'm Roger Wilson, I'm Director of Facilities and Planning for the Liberty Union High School District. While the District is not going to make a comment as to whether the project is a good project or a bad project it does have concerns as far as future services of the needs of our children and the educational facilities provided for them.

At this point a letter was read as testimony--a letter from Daniel M. Smith, Superintendent of Liberty Union High School District. This

letter is a part of these transcripts (attached) and the Response to Comments document. The letter is dated December 11, 1996.

MR. ZAHN: Mr. Wilson, you've given us a great deal of facts and figures are you going to make a letter.

MR. ROGER WILSON: Yes, I'll make a copy of this and leave it here with you.

MR. ZAHN: Well good. I have no more cards is there anyone else wishing to address the Draft EIR today or pardon me--this afternoon. If not, I will adjourn this part of the public hearing until 7 o'clock tonight, at which time we'll resume. Thank you very much.

The end of the 1:30 p.m. Zoning Administrator meeting on December 11, 1996.



Liberty Union High School District

20 Oak Street
Brentwood, CA 94513
Phone: (510) 634-2166 Fax (510) 634-1687
Daniel M. Smith, Superintendent

December 11, 1996

City Council Members and City Planners
708 Third Street
Brentwood, CA 94513

Re: Draft Environmental Impact Report
Cowell Ranch General Plan Amendment
Rezoning and related Entitlements
County File #1-92-CO, Rezoning #RZ933014

Dear Council Members and City Planners,

This correspondence sets forth the comments of the Liberty Union High School District relative to the proposed Cowell Ranch General Plan Amendment (the "project") within the County of Contra Costa (the "County"), which the Project area is also entirely within the boundaries of the District, and the Environmental Impact Report ("EIR") for the Project. The District is requesting that the County require the Project applicant to participate in the East Contra Costa County School Facilities Funding and Mitigation Agreement ("Mitigation Agreement") with the District to mitigate the impacts of the project on the District's school facilities prior to approval of the Project. Absent of such an executed Mitigation Agreement, the District objects to the approval of the Project on the basis that the significant environmental impacts of the Project on the District have not been addressed satisfactorily to a less-than-significant level for purposes of the California Environmental Quality Act ("CEQA"). The District further objects on the basis that approval, absent of an executed Mitigation Agreement, is inconsistent with the General Plan. In addition, the District objects to the approval of the Project in that the proposed General Plan and Land Use Elements do not provide for a school site for a grade level 9-12 senior high school. The absence of this Land Use provision within the Project approval is inconsistent with the County's General Plan Policies, Conditions for a 21st Century Community, and Principles and Guidelines for Cowell Ranch. In this regard the District submits the following comments relative to the approval of the Project and the draft EIR.

Condition of Approval

The EIR indicates that the Land Use designations proposed by the Project anticipates the development of 5,226 residential units in the Project area (EIR, Project Description, page III-42). Of this total 693 units are designated as senior multi-family residential units. This amount of development, 5,226 units, represents a significant amount, nearly 36%, of the total development that is "on the books" currently both in the County and the City of Brentwood. The EIR calculates that the Project will generate 583 grade level 9-12 students based on the District's Student Yield factors for single and multi-family housing, allowing for the senior housing portion of the Project. The senior housing units are within the 1,979 Multiple Family Residential Low Land Use designation (EIR Project Description, page III-22 and 42). The Multiple Family Residential Low designation allows for densities of 7.5 to 11.5 units per new acre and would include single family detached housing, attached townhouses, and multiple family flats, (EIR Project Description, page III-22). Detached single family housing within this land use designation would generate students associated with the District's historic multi-family yield factor of 0.09, (EIR Public Facilities and Services, page IV.F-79). Since by definition a portion of these units will be single family detached the EIR calculation of students generated is incorrect. If 20% of the remaining 1,286 Multiple Family Residential Low units (257 units) are single family detached

If 20% of the remaining 1,286 Multiple Family Residential Low units (257 units) are single family detached units and therefore, generate students associated with that housing type, then Table 50 (EIR Public Facilities and Services, page IV.F-79) should be modified to reflect that the Project will generate 609 grade level 9-12 students at the time of the Project buildout. The EIR concludes that the Project, based on the amount of students generated, "represents a potentially significant impact" (EIR Public Facilities and Services, page IV.F-84).

The EIR further states the following mitigation of the potential significant adverse environmental impacts as a result of the Project (EIR Public Facilities and Services, page IV.F-85 and 81):

"Require the applicant to (1) comply with applicable BUSD/LUHSD impact fee requirements, and (2) as a requirement of the County's development agreement with the applicant, and as recommended in the County's Conditions for a 21st Century Community (Condition 2, page 15), to submit a project school financing and cost distribution plan, to be established prior to the recording of each subsequent final subdivision map, which demonstrates to County (or City) satisfaction that sufficient funding will be available as and when needed to construct school facilities sufficient to comply with applicable County or City policies and standards. Funding measure may include applicant participation in East Contra Costa County School Facilities Funding and Mitigation Agreement. These measures would mitigate the impact to a less-than-significant level."

In this regard the District desires to emphasize the necessity to condition the approval of the Project upon full mitigation of the significant adverse environmental effects which result if the District's school facilities requirements are not met in time to meet the need, as required by the County's General Plan, Conditions for 21st Century Community, and Principles and Guidelines for Cowell Ranch. A condition to submit a school financing and cost distribution plan is not specific and does not meet this need or requirement on behalf of the District. The County Board of Supervisors have granted approvals to development projects that contained non-specific Conditions of Approval on behalf of school districts in the East County area such as WillService Letter requirements. Requiring a school financing and cost distribution plan is a non-specific condition. The County approved these projects on the basis that, 1) a level playing field was needed for all projects including those projects within the County's jurisdiction and the City of Brentwood's jurisdiction, and 2) the District had not formulated a specific agreement with the development community for which the County could specifically refer to and include as a Condition of Approval requirement. The District has provided a Mitigation Agreement that allows each developer flexibility in mitigation payments, provides a level playing field for those developments in the County and the City of Brentwood, and is executed by individuals organizations representing 6,000 units. The District has met and satisfied the concerns for which the County previously had approved projects without requiring full mitigation.

In order to fully mitigate the impacts from the Project the District requests that the County's Condition of Approval require the applicant to enter into the District's existing Mitigation Agreement.

School Site

The District has identified an impact as a result of new residential development and need for a third high school site for the construction of a comprehensive high school within the next ten years, depending on the amount and rate of new residential development. More than 14,500 units have been identified by the District as being "on the books." A portion of this need is a result of the significant adverse environmental impacts of the Project. The EIR states, (Public Facilities and Services, page IV.F-84):

"For the purposes of this EIR, it is assumed that the 583 high school students generate by the project (see Tables 50 and 51) would attend an offsite school or schools, since the project does not propose an onsite high school. At this time it is not known if project residents would attend Liberty Union High School in Brentwood, the new high school now under construction in Oakley, or a third high school that is under consideration at an as-yet undetermined location. A potential high school site on the Cowell Ranch property has

previously been discussed, and is still under consideration by the school district as one of six possible sites for the third high school. Supplemental environment review would be required if this option were to be pursued in the future."

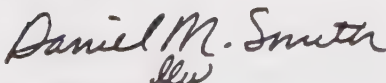
Up to the distribution of the draft EIR the Project contained a site for a future high school. The City of Brentwood's General Plan illustrates a future high school site within the boundaries of the Project, referred in their Land Use Map as SPA "J". The General Plan also illustrates an additional future school site in SPA "G". The District supported these site locations as the City adopted its General Plan review in 1993. The District has had the site reviewed by officials from the State Department of Education. The District has held numerous discussions with representatives of the Cowell Foundation on the need and appropriateness of the previously proposed site, located along Concord Avenue and Briones Valley Road. Specifically, based on the State review, the District requested additional information and/or clarification regarding the existing gas lines that are either adjacent to or cross the site, the location of the earthquake fault line near the proposed site, air emissions from the PG&E facility and proposed roadways, and development phasing. These requests are consistent with the provisions listed in the EIR, State School Facility Site Selection Standards, (Public Facilities and Services, Page IV.F-77). To date, none of these requests for information or clarification have been responded to, allowing the District to adequately evaluate the appropriateness of the previously proposed site. In this regard, the District has not stated it no longer needed or considered this site. The arbitrary elimination of a site within this project is not consistent with the interests of the District.

The EIR states if the District desired a site.... "Supplemental environmental review would be required if this option were to be pursued in the future." (Public Facilities and Services, Page IV.F-85). The District cannot make a determination as to the appropriateness of this site until such time concerns regarding State School Facility Site Selection Standards are resolved, requiring detailed information from the Project applicant. A third site will be needed to serve residential growth in the south central boundary of the District. A site within the proposed Project boundary would meet this need. In this regard, the District requests that this environmental review consider a future high school site within the Project boundary adjacent to Concord Avenue and Briones Valley Road, or in another suitable location within the project boundaries. Mitigation Measures for this proposed site should be consistent with those listed for Impact PF-22: School Siting Impacts, (Summary, Page II-36) for Transportation, Noise, Public Health and Safety, and Soils and Geology.

It should be noted that Government Code Section 65300.5, requires a finding of consistency between a project and the General Plan. In order to fully mitigate the impacts as a result of the Project the District requests that the applicant join the Mitigation Agreement with other City of Brentwood and County developments and provide for an onsite future school site.

We would be pleased to answer any questions you may have and provide further information if you require.

Sincerely,



Daniel M. Smith
Superintendent

DMS:llw

Wednesday, December 11, 1996, 7:00 P.M.
The Council Chambers, City of Brentwood

MR. ZAHN: I'd like to open the hearing. We have some preliminaries to take care of and that'll give some of the late arrivals a chance to file in and take your seats. My name is Charles Zahn. I'm with the Contra Costa County Community Development Department. I am one of the people in the Department who is authorized to precede at Zoning Administrator hearings. My role tonight is simply that of conducting a meeting and taking comments on the Draft Environmental Impact Report(DEIR) for the Cowell Ranch General Plan Amendment, the associated rezoning and related entitlements project. In other words the subject of the meeting tonight is to take comments on the Draft EIR which is this document and not to take testimony on the project itself. Jim Cutler is with me. Jim is our Department's project planner for this particular project and he will shortly describe the environmental process that we're going through now and the subsequent process dealing with the project itself. Audrey Woods is our secretary tonight; really the most important person because her work produces the transcript that goes into the final document and what is in that transcript that pertains to environmental subject matter has to be addressed in writing. Jim would you like to talk about the process for just a moment.

MR. CUTLER: Thank you Mr. Zahn. As was indicated, this is not a hearing on the merits of the General Plan Amendment or any of the entitlements which are before the County and would also be considered by the City of Brentwood. It's merely to deal with the adequacy of the Environmental Impact Report. It isn't necessary that you've read the document, but it is helpful in terms of commenting on a document in that regard. The process is this, that we're having the hearings on the Draft Environmental Impact Report. It's interesting to note that the California Environment Quality Act which is the law that was set up to deal with the need for Environmental Impact Reports--that that particular law does not require the holding of public hearings on environmental impact reports, however, it is the County practice and policy that we would in fact have public hearing and we did have one prior public hearing in Martinez, the town of Brentwood has requested the County to consider extending that comment to this particular location and we had it here this afternoon and we'll finish it up tonight.

What staff is recommending in terms of the process, is that tonight we close the public hearing portion of the EIR process, that written comments would continue to be allowed to be received on the EIR until January 9th and what we need is the comments to be in our office by 5:00 p.m., close of business. And that would be the closure of then receiving comments on the Draft Environmental Impact Report. What happens after that is the comments that we receive and the testimony and all the letters that we get will go to our planning consultant, a consultant hired by the County, and they will be writing responses and then they will be working with staff to make sure that staff is comfortable with those responses. That will go back to whoever is sitting as Zoning Administrator for the County and that person will then have to decide if they agree that the Draft EIR is adequate. If

they come to that conclusion they'll make a recommendation to that affect basically to the Board of Supervisors, but it would also be to the other Commissions that would have input into the public hearing process.

So that's the procedure on CEQA. When we leave CEQA and we get down to things that most citizens have interest in. We get into public hearings on the merits of the projects. Now there will be a period of time before we get to those particular hearings. As was indicated we are going to be receiving comments until January 9th and then we are going to give this to our consultant and they will have a period of time to respond—if we have a lot of comments, obviously, it will take longer to respond to those comments. One can anticipate in the early spring of the year that we'll be ready to talk about the merits of the applications. At that time, County staff, City staff, will be preparing staff reports on the applications that are pending. It's a little unique because there are applications at the County and also being considered by the City so it's somewhat unique. The County Planning Commission by County policy is the designated hearing body that will probably, though that is a decision that others will make, be involved with the East County Regional Planning Commission. But, the County Planning Commission would have jurisdiction under established County policy. Where the hearings will be held, I can't comment on that at this point and time. That isn't my decision either. The public hearings will be first before the hearing body which is the County Planning Commission and whatever decision they make, whatever recommendation they make or the East County Regional Planning Commission for that matter, will go forward for a new set of public hearings before the County Board of Supervisors and then we do the process all over again. So, when we get down to the merits of should there be a Cowell Ranch shown on the County General Plan or added to the City General Plan, there will be a range of hearings that all of you can participate in. I'm only speaking to the County aspect of the process now, the City of Brentwood can speak to their own process at some other time. So, I think, hopefully that is clarified that what we're here to do, its a very limited purpose meeting tonight, its a procedural aspect that we do to try and get the best Environmental Impact Report we can and please if you don't feel comfortable speaking here tonight we encourage you to write us a letter on what you think should be in the EIR or what you think is missing in the EIR or what you think is incorrectly stated in the EIR. So, with that, I turn it over to Mr. Zahn.

MR. ZAHN: Thank you. We forgot our own slips tonight, the City of Brentwood has generously supplied us with some of theirs. I'd like any of you who are intending to speak tonight to make out a slip and hand it to Audrey Woods here. We'll generally take these in the order in which they're received, however, if there are any people here tonight who are representing public agencies, as a matter of courtesy we usually allow them to speak first. Do we have any public agency speakers here tonight? If not I'll take these in order, but before I ask for comments I wish to point out that an Environmental Impact Report is neither for or against a project, it is merely a disclosure document. And that's why we're looking for comments on the EIR tonight rather than on the project itself. As Mr. Culter has

explained that will be handled at a separate set of hearings. The first card I have is from Denise Hollabaugh-Thom.

MS. DENISE HOLLABAUGH-THOM: My comments go to the loss of open space. The document refers to the loss of open space as significant, but considers it as significant unavoidable impact resulting from surviving the Bay Area Urban expansion. There's no doubt the Bay area is expected to expand over the next 20 years. The Association of Bay Area Governments predicts Contra Costa County is expected to absorb 23% of the regions projected 1.2 million new residents. And the Cowell Ranch project is designed to provide housing for some of those residents at the expense of open space. And the EIR also admits conversion of this open space will contribute to the bay area's continued urban expansion and the regional and subregional trend toward decentralization, outlying suburban growth, decrease separation between communities and associated continuing encroachment onto agricultural and open space lands. It expects the project to result in an irreversible loss of approximately 1,269 acres of open space, and although it addresses the aesthetics of this loss elsewhere in the subject document it is the opinion that this insufficient attention is payed to this loss, because the aesthetic loss of the open land surrounding Brentwood will have a lasting affect on the flavor of the Community at large as the community moves from an agriculturally based rural small town to that of a decentralized bedroom community serving both the highway 4/ highway 680 corridor in the east bay.

2.25

The other one I had a comment on was the finding that substantial population increase will exceed regional projections and it refers to the population increase as significant and considers this increase as a less than significant impact after mitigation. And it says that the proposed project would induce substantial growth and concentration of population in the Cowell Ranch area and cause local populations to exceed official regional population projections. As indicated in the discussion of that finding, the large increases in the population will require the community to change its persona once again, from rural small town to larger decentralized community. The report suggests that mitigation of this population growth through a concurrent growth of local services including schools, hospitals, police or sheriff substations, sewer and water plants and of course all of these mean further collateral growth away from the centralized community of Brentwood.

2.26

The next one is the--there's several combined here substantial population increase, exceeding regional projections, substantial change in physical arrangement of the Brentwood community and the impacts on commercial, retail and office development in Brentwood itself. It says that the proposed project would induce substantial growth and concentration of population in the Cowell Ranch area and cause local populations to once again exceed official regional population projections and it would substantially change the existing physical arrangement of Brentwood. And it refers to this as significant unavoidable impact associated with this project. And the exception is LU-2 where the EIR considers the substantial change in the physical change in Brentwood is less than

2.27

significant impact after mitigation. Now, the EIR admits that the proposed project along--combined with other pending and/or approved development would alter existing rural residential character of the south Brentwood vicinity by introducing urban development, roadway, other improvements and projected related traffic and associated noise. More importantly, the development of such a large project so far removed from the traditional center of the community will draw downtown business away from the hub and into the suburbs. And this in turn will create an economic move away from the center of Brentwood, substantially changing once again. And the effects of these decentralization can be seen in other communities who's growth was planned on the bases of available space rather than as a planned community. There are several examples, Fremont being one of them where there are several distinct communities, but no one centralized downtown.

2.27

That's all I have.

MR. ZAHN: Thank you.

MR. CUTLER: You look like you have something in writing are you going to be submitting written comments also?

MS. DENISE HOLLABAUGH-THOM: Not at this time.

MR. ZAHN: I only have this one slip, there must be others who--good. We'll take the lady first, since she was the first one I saw raise her hand. This is Edith--what--Tidrick.

MS. EDITH TIDRICK: I would like to primarily speak to the noise pollution that will be involved with the highway which will be coming in and of course this is written within to the EIR. I'd like to make note of the fact that I would like to see some statement to the fact that it will be at least addressed later on because it will be a large problem for those of us who live in the area. Although I realized this has to do with the EIR and the EIR doesn't really talk to the point. I would like to also make note of the fact that I'd like to see Orchard Lane not to become a culdesac, because it does interrupt with the traffic which will interrupt my income which is my U-Pick orchard. There are other things involved with the EIR that I find need to be looked at--I will write to that point, but I would like to make a point of speaking to the noise and have that, at least, on record. Thank you.

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2.29

MR. ZAHN: Thank you, the next card I have is Tom Mooers.

MR. TOM MOOERS: Good evening and season greetings. My name is Tom Mooers and I'm the east bay field representative for Greenbelt Alliance and first of all thanks for continuing the Martinez hearing and bringing it out to Brentwood I think its been very helpful I think we are a little surprised that there were more people in the afternoon than in the evening session. But, it's great that people have a chance to hear about it locally.

The Draft EIR presents a real long list of negative impacts that could threaten the quality of life here in Brentwood, east county, and beyond. Some of these impacts are not adequately addressed in the Draft EIR. I'll briefly highlight a few of those but then Greenbelt Alliance will submit some more detailed written comments before the deadline.

In general buildout of the proposed Cowell Ranch would have real tremendous negative impacts on the area in particular in terms of loss of agricultural resources, an increase in traffic congestion, it would exacerbate the jobs/housing imbalance in east county, pave wildlife habitat and would have potential impacts on the local housing market and could also strain local schools among other impacts. According to the Ledger Dispatch for instance of Oct. 22nd of this year it says quote "No matter how its done putting 13,000 more people in the hills, south of here, will not make Brentwood a better place to live." Specifically, just to highlight a few areas where the Draft EIR is inadequate in accessing potential impacts. One in terms of agriculture, it needs to better address the impacts that urbanization will have on nearby agricultural resources, not just the on-sight agricultural resources as found on the current Cowell Ranch. In terms of traffic, the Draft EIR includes some so called improvements to highways and other transportation areas. What needs to be addressed is what the costs of these transportation improvements are and what are the sources for the funding. One example is the Route 4 Bypass that right now according to the current plan, in order to be built there would be mitigation fees placed on new development which would kick in about a little less than half of the cost of the total road. But for one, that new development would already push the expanded highway beyond capacity and we'd be back to gridlock and also we need to have a good idea to what--from where the rest of that money is going to come.

2.30

2.31

In terms of jobs/housing, and the jobs/housing imbalance in east county, according to the Draft EIR the Cowell Ranch would produce 1,221 more residents than it would produce jobs. But I still think that number is optimistic and that's not really clear from the Draft EIR and what I mean is that there are a lot of local development plans in east county. Future urbanization area #2 in Antioch is a good example that are also counting on bringing jobs into the area, but we need to have a good idea of where these jobs are going to come from, what are they going to be and I'd like to make sure that they are not being counted on more than once so that one development plan is not counting on the same jobs that Cowell Ranch and other development plans are counting on.

2.32

Another area that should be better addressed is the need of Cowell Ranch. Locally in Antioch and Brentwood combined there have been 15,000 housing units approved in the past almost ten years that have not been built. So the EIR needs to show that there really is a need to approve yet more housing development and also with schools which we heard about briefly this afternoon. What are the impacts going to be on the local school districts and where will kids who live in Cowell Ranch, where would they go to school?

2.33

2.34

And as I said, we will spell a lot of these and more things out in detail in written comments and I also want to encourage the County to, as your doing right now, when we come to the future hearings that Mr. Cutler was discussing, come back out to Brentwood again so we can discuss the local impacts of Cowell Ranch. Thank you.

MR. ZAHN: Thank you. That was the last card I had—we have other speakers.

MS. LAURIE SCHUYLER: I've already spoken at the last hearing and I just want to add one comment on the loss of Ag land. Especially regarding the adequacies of mitigations AG-1 and AG-2 the Draft EIR suggests a redesign. And if that is infeasible then the loss of Ag land is considered significant and unavoidable. Another mitigation that should be required in the Draft EIR especially in regards to the loss of 133 acres of Ag Core, is to require the purchase of development rights on other similar farmlands and add it to the Ag Core to compensate for the loss. That's all.

2.35

MR. ZAHN: Thank you. Do we have other speakers?

MS. BARBARA BONNICKSON: I'm Barbara Bonnickson from Brentwood and you may have answered some of these things already. I'm wondering why there isn't some kind of a map or something to help people understand where the layout..... I know this afternoon the Cowell Foundation had a very nice presentation at Caps for those of us who had been having lunch there at their hospitality. But I'm wondering—I understand there wasn't any map or anything this afternoon for the very large audience that was here and I wondered why there wasn't a little bit more explanation for local residents about that. The other question I have is, I realize that the water and the sewer resources of Brentwood will go to the Cowell Foundation. I'm wondering is there more—is there plenty—is it adequate— if that much goes to the Cowell Foundation Project? Will there be plenty of resources of this nature for other developments in Brentwood that might come along in another direction to the west to the east and so forth in Brentwood. I think—and also the same with the schools I know with this much building going on in the schools for that development, what about the school expansion for the other parts of town that might be developed. Now these questions of mine may be very ignorant, I don't know. I may be the only one who has these questions but I don't understand this part of it. Thank you.

2.36

2.37

2.38

MR. ZAHN: Let me comment that the Draft Environmental Impact Report does contain a number of maps and the presumption is that people who are giving comments at this hearing have acquainted themselves with the Draft EIR and are addressing that document. At future hearings on the project itself there will be maps and explanations given of the project itself. It's just that we are at a particular stage of the process where we're receiving comments on this particular document, if that helps.

Are there other speakers? If there are no other comments, Jim you were going to say something—I was going to point out that for those of you who have submitted slips tonight

and spoke, your names will be added to the list of people who are notified of future hearings. If there are others in the audience who have not spoken, but wish to be notified of future hearings, please come up and see Audrey Woods and she will insure that your names are added to the list.

MR. CUTLER: I was just going to remind everybody and I'm sure that the Zoning Administrator will take this action. What we're recommending at this point is the public hearing, the verbal portion of the process be closed on review of the Draft EIR and that staff's recommendation now, Mr. Zoning Administrator, is that you close that portion and you leave the comment period open until the 9th of January for receipt of comments--5:00 P.M. in the County Community Development Department, thank you.

MR. ZAHN: I will do exactly that--I will close the hearing for oral testimony and let the audience know that the comment period is open until 5 o'clock on the 9th of January. Thank you all very much for attending.

The end of the 7:00 p.m. Zoning Administrator meeting on December 11, 1996.

j:\aw\cowell.min

B. WRITTEN COMMENTS

Reproductions of letters and memoranda received during the Draft EIR public review period are included in the following section. The Lead Agency's response to substantive comments herein pertaining to the adequacy of the Draft EIR is included in Volume 2 of the Final EIR document. Comments (Volume 1) and responses (Volume 2) are correlated by code numbers added to the margins of each letter and memo.



MEMBERS

Gayle Bishop
County Supervisor
Martin McNair
Public Member
David Jameson
Special Districts

Dwight Meadows
Special Districts
Michael Menesini
Martinez City Council
Mark DeSaulnier
County Supervisor

Gayle B. Ullkema
Lafayette City Council

ALTERNATE MEMBERS

Joseph Canciamilla
Pittsburg City Council
David Kurrent
Public Member
Stephen Morgan
Special Districts
Jim Rogers
County Supervisor

EXECUTIVE OFFICER
ANNAMARIA PERRELLA

DATE: October 24, 1996

TO: James W. Cutler, Assistant Director of
Comprehensive Planning

FROM: Annamaria Perrella

SUBJECT: DEIR – COWELL RANCH GPA, REZONING AND RELATED
ENTITLEMENTS, COUNTY FILE #1-92-CO, REZONING #RZ933014

DEVELOPMENT DEPT

OCT 25 PM 3:44

CONTRA COSTA

Thank you for submitting the subject document to LAFCO for review. As stated in the DEIR, the site is located within the City of Brentwood Planning Area and "partially within the Brentwood sphere of influence" (SOI). To clarify that statement: On March 9, 1994, LAFCO placed 2,185 acres of the 5,500-acre Cowell Ranch site within Brentwood's SOI boundary. The portion of the site placed within Brentwood's SOI is within the County's Urban Limit Line (ULL); the remaining acreage is outside the ULL. Also, a minor correction on the definition of SOIs as stated in the Introduction: An SOI is "the probable physical boundary and service area of a local agency as adopted by LAFCO". The word "ultimate" was removed in 1994 as outlined in AB 1335 (the "Gotch" Bill).

3.01

The DEIR defines the project as a proposed general plan amendment (including ULL adjustment), planned unit development, rezoning and development agreement. The current project application does not request annexation to the City of Brentwood. However, the County, as lead agency for environmental review, contemplates that this Master EIR will service as the CEQA-required environmental documentation to be used by responsible agencies such as LAFCO. Responsible agency status occurs when LAFCO is not the lead agency but, nevertheless, has discretionary approval authority over a project in tandem with, or separate, from that of the lead agency.

3.02

The Anticipated Subsequent Projects, beginning on page III-46, describes "projects" that would fall within LAFCO's authority, such as changes in existing spheres, changes in existing boundaries, and the creation of new districts. The related diagram also offers a good visual aid for the discussion of current and subsequent projects. Additionally, the Public Services Section excellently analyzes governmental services which would be required by local agencies and includes the public facilities necessary to provide those services. Assuming that "subsequent projects" involving LAFCO review will require a separate initial study process and CEQA documentation, I look forward to reviewing that future documentation.

cc: LAFCO Commissioners

CONTRA COSTA MOSQUITO AND VECTOR CONTROL DISTRICT

155 MASON CIRCLE ■ CONCORD, CA 94520 ■ (510) 685-9301 ■ FAX: 685-0266

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Nancy Brownfield

ADMINISTRATION

GENERAL MANAGER
Charles Beesley, Ph.D.

96 NOV - 8 PM 3:09
COMMUNITY
DEVELOPMENT DEPT

CONTRA COSTA

November 4, 1996

Mr. James W. Cutler
Assistant Director of
Comprehensive Planning
Contra Costa County
651 Pine St., 4th Floor, N. Wing
Martinez, CA 94553-0095

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT COWELL RANCH
GENERAL PLAN

Dear Mr. Cutler:

We have received the Draft Environmental Impact Report Cowell Ranch General Plan. After close review of this document, Contra Costa Mosquito and Vector Control District (District) staff wish to express some concerns not addressed in Section IV., Setting, Impacts, and Mitigations, in the Draft E.I.R. for this project.

Section M. Public Health and Safety:

Our first concern is the potential for public health problems. In 1996 and 1993 the encephalitis virus was detected in Contra Costa County. The encephalitis virus is transmitted by the *Culex tarsalis* mosquito and there are no available vaccines or specific treatments for human cases of encephalitis.

Any project which could induce growth in Contra Costa County causes concern for the District, as this buildout will increase the number of people who will be exposed to mosquitoes. Over the past 40 years there have been over 500 cases of Western Equine Encephalitis in California and over 600 cases of St. Louis Encephalitis. Unfortunately, people have been lulled into believing that there is no danger of disease from these mosquitoes.

4.01

■ A vector is any insect or other arthropod, rodent or other animal of public health significance capable of causing human discomfort, injury, or capable of harboring or transmitting the causative agents of human diseases

■ MEMBER MOSQUITO AND VECTOR CONTROL ASSOCIATION OF CALIFORNIA ■

Section E. Drainage, Flood Control, and Water Quality:

The project will require drainage and construction work. New construction brings with it reduced infiltration of rainfall, increased runoff, and changes in drainage patterns; and will take water to nearby creeks on a regular basis. This runoff will drive up mosquito breeding frequency.

When new drainage ditches, detention ponds and channels are built, they should be as deep as possible and have steep sides to minimize mosquito production. Water levels should be kept as constant as possible to avoid production of floodwater *Aedes* mosquitoes. Whenever possible, emergent vegetation should be minimized, as this provides a protective and nutritive habitat for immature mosquitoes. It is also imperative that this District have access to all potential mosquito breeding sources in the project area.

4.02

Section F. Public Facilities and Services (10. Other Public Services):

This office already maintains an extensive program of source surveillance in and around the proposed project area, and all sources are inspected and treated on a regular basis. It is important to note that there will be an increase in the level of service required from this District under the plan because of additional mapping, source inspections, public service requests and treatments required.

4.03

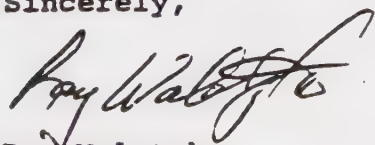
Section G. Biological Resources:

Generally, proposed mitigation to compensate for the loss of wetlands is required. If new wetlands are required because of this project, the mitigation should include the necessity of monitoring by this District to determine necessary corrective measures to remedy undesirable trends in the establishment of the wetland.

4.04

In closing, this office has the expertise, and is available for consultation, regarding the design and management of wetlands, flood control systems and drainage patterns. We recommend that Contra Costa Mosquito and Vector Control District be consulted on the proper procedures to best control mosquito problems in the project area. Please call our office should you have any comments or questions.

Sincerely,



Ray Waletzko
Administrative Analyst

RW

Write It, Don't Say It

CONTRA COSTA COUNTY
96 NOV -7 PM 2: 09
COMMUNITY DEVELOPMENT DEPT.

Date: November 7, 1996

To: Jim Cutler, Assistant Director of Comprehensive Planning, Community Development Department

From: Henry Finch, Project Engineer, Flood Control *Henry*

Subject: Cowell Ranch Project Draft EIR Comments

File: 97-108

We have reviewed the Draft EIR for the Cowell Ranch Project, and have the following comments:

1. Page IV.D-52, Section g, Marsh Creek Reservoir Dam, Mitigation SG-14 (also the summary of impacts and mitigation measures table): The responsibility of performing a stability analysis of the Marsh Creek reservoir, and any necessary mitigation proposals if the dam is found to be instable is not be the responsibility of the Flood Control District or the Department of Water Resources, Division of Dam Safety. It is the responsibility of the applicant. The Flood Control District and the Division of Dam Safety would be the reviewing/approving agencies. Please ensure that the appropriate wording changes are made to this section of the Draft EIR. 5.01
2. Drainage and flood control mitigation measures D-2, D-3, D-4, D-5 and D-6 should not identify the County as the reviewing/approving agency for flood control facilities such as creeks, reservoir, proposed drainage area plan improvement, etc. It should be the Contra Costa County Flood Control and Water Conservation District. Also, the drainage fee ordinances are created and administered by the District, and not the County. 5.02

If you have any questions, please give me a call at 313-2316.

:hf

g:\fdct\henry\cowell\deir.t10

c: M. Morton, FCD

CUNYBA 00511

96 NOV 13 PM 1:

CONVICT /
DEVELOPMENT DEI

David Moyal
4214 Walnut Blvd
Walnut Creek, CA 94596
510-938-8665

11/7/96

CDD
651 Pine St.
4th floor
Martinez, CA 94553

Dear Sirs;

I am writing to voice my objection to permitting development of Cowell Ranch in Brentwood.


Building a development of this size, given the already immense pressure on transportation infrastructure in the area, just doesn't make sense. The impact on surrounding communities, like mine in Walnut Creek, is significant.

It also seems unconscionable to sacrifice prime open space to this development. I understand the desire of the development corporation to make money, but they should be concentrating on developing housing in areas of existing population concentration.

From what I've read, there doesn't seem to be a single good reason (apart from corporate greed) for proceeding with this development. Jobs from the buildin itself are typical "boom" jobs, and the creation of local permanent work sites could easily proceed without the development.

Please oppose the development of Cowell Ranch.

Sincerely,


David Moyal

6.01



Founded 1916

St. Anne's Catholic Church

Camino Diablo and McCabe Roads
P.O. Box 476
Byron, California 94514

CONTRA COSTA

55 NOV -8 PM 3:09

COMMUNITY
DEVELOPMENT DEPT

November 7, 1996

Community Development Department
651 Pine Street
North Wing-Fourth Floor
Martinez, CA. 94553

To Whom It May Concern:

I am pastor of St. Anne's Church in Byron. We at St. Anne's and the local region of Catholic parishes (Antioch, Oakley, Brentwood and Byron), as well as, the Diocese of Oakland have been closely following the growth in east Contra Costa County. We are in the process of planning for the future ministries of the Catholic Church in this region. I want to address the proposed development of Cowell Ranch, which will directly impact my parish.

I am sensitive to the needs of the natural environment and endangered species. I believe that we need to responsibly care for all of God's creation. I am, also, sensitive to the "endangered species of housing" that young Bay Area families can afford. There are over five hundred registered families (from Byron, Discovery Bay and Brentwood) in my parish. Many of these are young families with small children. They moved out here because this is where they could afford to live and still reasonably commute to work. Many commute to the San Jose area, others San Francisco. This makes for long days. If they did not live here they would be forced to live even further out, commute further and see even less of their families. So, the development in this area has been good for these people.

When we look to the future, I believe population growth is inevitable. It makes sense to accept this as a reality. Even if Contra Costa were to stop all development in east county there is pressure on the infrastructure from development in neighboring San Joaquin County. The traffic that passes between here and Tracy, between here and Stockton, between here and Livermore is heavy and constant. Since the opening of the new Vasco Road traffic on Camino Diablo (church location) has become very heavy! The Church parking lot has become a truck turn around. The 25 mile an hour zone in Byron is not observed. There have been several serious accidents on a

7.01

narrow and tight turn on Camino Diablo and Holway streets. The narrowness of Camino Diablo was not intended for the kind of traffic it now sees. A once quiet residential area feels like a major highway.

I am not suggesting that anyone can stop this increase. However, I believe that we should be pro-active rather than reactive. We need to responsibly plan for the growth. Not to plan for growth and adequately develop the infrastructure will be disastrous for the region. We need new highways now! Vasco Road should have been four lanes. If you come through there at 5 PM the traffic is backed up from Brentwood to at least a mile past Camino Diablo. People use Camino Diablo as secondary route around the traffic. The traffic is already coming and it does not seem we are prepared. We in northern California seem to fight the idea of freeways and expressways. We do not build them and the traffic comes anyway. We let traffic onto surface streets not designed to handle the volume. I lived in Hayward for five years and have seen when the decision is made not to build highways. Traffic, that is merely passing-through Hayward, is funneled through the surface streets. The volume of traffic in Hayward strangled downtown and helped to kill it. The same kind of strangulation is beginning to happen here. We need to deal with it, whether with freeways or toll roads, extending BART or developing less expensive light rail etc.

7.01

I am not against the growth. What I am against is the attitude that somehow we can maintain the status quo or even prevent the growth. I believe that attitude is a form of denial, and prevents responsible, creative and practical solutions. Is it not better to plan than to react under crisis? It is for this reason that I find the idea of Cowell Ranch appealing. It is trying to address the need for housing in the Bay Area. But it also is trying to do it in a new way. I think it would be wonderful and healthy for families to be able to live and work in the same area, without the long commutes that over tax so many. If we plan rather than react we can balance the needs of people, the ecology and the pressure that development puts on both. This means making an investment of commitment, creativity and revenue. Not to deal with these issues will condemn both the ecology and the quality of life for the people living here.

7.02

Let us not ignore these issues. Together the people of this region and county can reasonably work to achieve a balance between human needs and nature. Both can benefit from our creative, reasonable and realistic efforts.

Sincerely,



Rev. Ronald G. Schmit
Pastor

CONTRA COSTA

To: Community Development Department

96 NOV 13 PM 1:43

From: Michael J. Palucki

COMMUNITY
DEVELOPMENT DEPT

Date: 11-10-96

Re: Cowell Ranch Project draft environmental impact report

Dear County Officials:

One year ago my wife and I moved to Walnut Creek from southeast Los Angeles county along the Orange county border. We lived in S. California for 5 years and prior to that in Chicagoland.

Within months of moving here I happened to take a Sunday drive eastbound on Marsh Creek Road to Brentwood. Wow! What an incredibly scenic and beautiful roadway, and in such a large metro area. I can't think of anything like it anywhere in Southern California or Chicagoland. What a wonderful pastoral setting, especially with the apple orchards near Deer Valley Road and Vasco Road. My first reaction was, "I can't believe this area still exists and hasn't been paved over with subdivisions and strip malls, I know that's what would have happened in Southern California."

Since that ride I've paid close attention to development issues in east and central Contra Costa. Having lived in Southern California I've experienced first hand the endless expanse of subdivisions, industrial parks and strip malls that accompany terrible planning. I can only pray for wisdom among our county and local officials, because, believe me, you DON'T WANT eastern and central Contra Costa County to resemble those other counties. We must preserve "real" agricultural landscapes that connect us to our rural past.

The Cowell Ranch Project violates most of the basic principles of sensible development, including; hop scotch-like urban growth, increased traffic, suburban sprawl, reduction and eventual loss of agricultural activities, and a general decline in this area's livability. Keep development where it belongs, adjacent to already developed areas. Go to Orange and LA counties and see what our future might be. Let's not lose what we have.

8.01

Cordially,



Michael Palucki
2586 Chinook Drive
Walnut Creek, CA 94598
(510) 944-9435

Laurie Schuyler
2850 Loma Vista Ave.
Concord, CA 94520
676-7723

11/10/96

Comments on Draft EIR Cowell Ranch:

The traffic model is based on 5,485 new jobs by 2010 at Cowell Ranch and another 1,143 jobs by 2026. The DEIR also predicts a huge increase in jobs in other East County communities.

9.01

If these jobs don't materialize, what will be the impact on already congested corridors and intersections?

How many more cars in the year 2010 and in the year 2026 would be expected to use Vasco Road, SR 4, SR4 Bypass, Kirker Pass Road, Ygnacio Valley Road, and Marsh Creek Road?

9.02

What additional intersections will exceed performance standards? By how much? How will these be mitigated?

9.03

How many of the new jobs expected are associated with the new community college?

Are these jobs built into the job projections for the year 2010 or 2026?

Is the traffic model based on the assumption that these jobs will be in place?

What is the expected source of funding for a new community college?

9.04

If there is no funding available to build it, how many more cars will be commuting in and out of the area in the years 2010 and 2026?

With the demise of Measure D in the recent election, is the funding more remote for this new college, as any funds that became available would likely go to the new college planned at Dougherty Valley first? Does this change the timeframe when a new college can reasonably be expected?

The DEIR assumes that many residents will work in Antioch and Brentwood. How are new jobs in these communities being divvied up between the Cowell development and existing approved residential development in East County? What percentage of these jobs are expected to go to Cowell Ranch residents as reflected in the traffic model?

9.05

Are the new jobs expected from Antioch's FUA #2 built into the job assumptions reflected in the traffic model? If so, when are these jobs expected to come on line?

The EIR for FUA #2 states that 1,300 homes need to be built first to front end the costs for the circulation and flood control infrastructure needed for the business park. Additionally, Antioch has another 7,000 homes that are approved but remain unbuilt, so these 1,300 homes won't necessarily be built in the near future. Therefore FUA #2 jobs would not reasonably be expected to be created by the year 2010. Based on these facts, how many more cars would be commuting to destinations outside East County? Where will they be going?

9.05

The traffic models used for new residential development in Antioch's FUA #1 and #2 are also based on jobs/housing balance from new jobs in FUA #2. How are these jobs divvied up between Cowell Ranch and other approved and proposed residential development? Are new jobs being counted more than once to make each developments' traffic numbers look better?

Jobs are also dependant on the adequacy of the transportation network. The DEIR states (Page IV.C--52) the State Route 4 Bypass won't be in place until 2006 - 2010, and "In the absence of excellent regional access to this portion of the project, the ability of the project proponent or any developer to attract significant job producing uses prior to 2006 would be very limited." Based on these facts, how many jobs would Cowell Ranch reasonably be expected to attract before the year 2006 if the SR4 Bypass and other transportation improvements are not in place?

9.06

If transportation system improvements are not in place until the years 2006, is it reasonable to assume that 5,485 jobs will be created in four years?

For each County Roadway improvement assumption listed on page IV.C-36-38 what is the projected cost? What are the current funding sources for each project? How much of the money is currently available? What is the current funding shortfall for each project? In each case, what is the anticipated source of funds to cover the shortfall?

If State or Federal funds are expected to cover the shortfall, being that the possibility of securing funding from these sources is so remote, what happens to the traffic model if these roadway improvements are not fully funded and therefore are not built on schedule? If State or Federal funds are not available, to build the anticipated sections of the Highway 4 Bypass and Highway 4 widening projects, how will the local road network be impacted by Cowell Ranch? How will these impacts be mitigated?

9.07

Ygnacio Valley Road and Kirker Pass roads are not included in the traffic study even though the DEIR states that this is a "commuter bypass used to avoid SR4 freeway congestion." (Page IV.C-4) The projected increased number of car trips on these routes generated from Cowell Ranch should be included in the traffic study!

9.08

If Briones Road goes through in the future, won't it provide a short cut to Marsh Creek Road and undermine the purpose of closing Marsh Creek Road to through traffic?

9.09

Was traffic rerouted from the closure of Marsh Creek (impact T-3) road factored into traffic figures for Highway 4 and Vasco Road under 2026 conditions?

9.10

According to the traffic model 92% of the traffic stays in East County during peak AM hours and only 4% commutes west in the mornings. How will this change if new jobs and the required transportation infrastructure does not materialize?

9.11

By creating a job center in East County, what will be the effect on existing job centers in Oakland and San Francisco? What percentage of the projected jobs will be those which are attracted away from these other areas?

9.12

Many more roadways and intersections would fall into the category of "potentially significant impact" if job and roadway improvement assumptions don't hold up. Will Cowell Ranch developers be held responsible for mitigating these additional impacts as well?

9.13

How will "fair-share funding" towards offsite roadway link and intersection improvements be determined?

If "fair-share funding" is calculated based on a straight percentage of use by Cowell Ranch generated traffic (especially considering passage of Proposition 218) what entity will pay the share for the cars already using the particular intersection?

9.14

Will the equation determining fair-share take into account the fact that traffic lights or other modifications would not be needed without the additional impact of Cowell Ranch Development?

Partial funding for an offsite improvement does not directly translate into that project being built. What are the other sources of funding for local offsite improvements? When is it projected that sufficient funds will be available to complete the projects? If money is expected to come from impact fees for residential development, will there be a delay between when impact occurs and when it can be actually mitigated?

9.15

How specifically will mitigation T1 section 4 be implemented?

9.16

How can jobs reasonably be expected to come first when the impact fees needed to build the infrastructure necessary to attract these jobs will be generated from the residential component?

9.17

It is projected that the impact fee built roads will be clogged as soon as they are built, as they do not have sufficient capacity to accommodate traffic generated from the residential units that paid for them. Will this reduce the attractiveness of this area for locating jobs and is this factored into the job assumptions that underlay the traffic model?

9.18

What is the dollar amount that would render a mitigation "infeasible" for meeting performance standards?

9.19

The suggested mitigation for the substantial traffic impact on SR4 from Railroad to the SR4 Bypass (Page IV.C-54) is widening this section of SR4 to eight lanes before Phase 1 is "completed." Is this mitigation feasible given the current transportation funding climate? Does the word "completed" mean that this mitigation can be delayed until all but one building permit is issued?

9.20

Page IV.C-55 states that under year 2026 conditions the project will have significant adverse impacts on the already widened Highway 4 as well as Vasco Road. It further states widening either of these roadways is infeasible. Therefore it is reasonable to assume that many cars will look for alternative routes to commute West. What are these alternative routes? What is the projected traffic increase on these alternative routes? How can they be mitigated?

9.21

Page IV.C-55 suggests further widening of SR4 Bypass north of Laurel Road as it will be operating at LOS F without the project under 2026 conditions. How much would it cost? Will Cowell Ranch development be expected to pay a share of it? The East County mitigation fee is only going to pay for the initial four lane road? What is the anticipated funding source for widening this stretch further? When can full funding reasonably be expected? If this improvement is not funded what routes will cars take to avoid it? Will Cowell Ranch mitigate these impacts?

9.22

Page IV.C-55 suggests widening I580 east of Vasco Road as the project would add traffic to this section that is expected to be already operating at LOS F conditions without the project under year 2026 conditions. How much would it cost? What is Cowell Ranch's fair share contribution to this project?

9.23

Page IV.C-55 suggests widening SR4 to four lanes east of Bixler Road, a project for which there is currently no identified source of funding. How much would it cost? What is Cowell Ranch's expected contribution to this?

9.24

Page IV.C-56 suggests widening Byron Highway which is expected to operate at LOS F in both 2010 and 2026 even without the project. How much would it cost? What is Cowell Ranch's expected contribution? What is the time frame in which it can be reasonably expected to be funded and completed?

9.25

Page IV.C-56 suggests widening Camino Diablo and Balfour Road? How much would Cowell Ranch be expected to contribute to widening these streets. When are these projects likely to be completed?

9.26

If funding is not available to widen Highway 4 before Cowell Ranch is built, how many additional trips will be generated over Kirker Pass to bypass the congestion?

9.27

Jerald A. Britten
3720 Holmes Rd.
Oakley CA, 94561
(510) 679-9925

95 NOV 19 PM 4: 11

CONTRA COSTA
DEVELOPMENT DEPT

11/14/95

Contra Costa Community Development Department
651 Pine St.
North Wing, Fourth floor
Martinez, 94533

To whom it may concern,

I am writing to express my extreme dismay and opposition to the proposed Cowell Ranch (over)development. This massive development proposal is akin to creating another city in the prime agricultural area of east county. Traffic problems south of Brentwood, already quite severe, will become as bad as those now occurring most of the day in the south bay and western Contra Costa traffic corridors. It is time to put a stop to the urban and suburban blight that is spreading eastward. The close proximity of the proposed development to the Los Vaqueros watershed will increase recreational and development pressure there which will adversely impact the water quality of this watershed. This will defeat one of the major purposes of the development of this watershed. There is no reason to believe that the new jobs projected for the region will be any different in character from those created in Brentwood in recent years; that is, service jobs such as retail which cannot support a quality standard of living. The net result will be the continued expansion of Brentwood as a bedroom community. It is beyond comprehension that anyone would look at this kind of suburban expansion, as exemplified in the Los Angeles basin, for example, as anything but a tragedy for the already compromised rural character of the region. I vigorously oppose this plan.

10.01

Sincerely,



Jerald A. Britten

Mr. James Cutler
Contra Costa County
Community Development Department
651 Pine Street
4th Floor, North Wing
Martinez, CA 94553-0095

95 NOV 19 AM 11:50

COMMUNITY
DEVELOPMENT DEPT

November 14, 1996

Dear Mr. Cutler,

I have reviewed the Transportation Element for the Cowell Ranch General Plan Amendment DEIR. I have the following comments:

Cowell Ranch Would Exacerbate the Imbalance Between Workers and Jobs

I am very concerned about the gross imbalance between jobs and housing in Eastern Contra Costa County. At face value, it appears that this development will only serve to exacerbate growing accessibility problems in this area.

Impact LU-11 on Page II-9 states, "[T]he total number of employed residents currently anticipated at buildout of project Phases I and II (approximately 7,849) exceed the number of onsite jobs (approximately 6,628)[.]"

Thus, upon buildout of Cowell Ranch, 1,221 "excess" workers will be looking for jobs elsewhere. If other areas are any indication, it is likely that numerous San Joaquin County workers will take many of the Cowell Ranch jobs. As a result, the out-commuters resulting from the Cowell Ranch project will likely substantively exceed the 1,221 figure.

11.01

While the mitigations proposed are relatively aggressive, there appears to no mechanism that would otherwise change the figure of 1,221 more workers than jobs. If this is indeed the case, there appears to be no basis for considering this to be a LS - or less than significant impact. 1,221 excess workers should rightfully be considered a significant impact.

According to the 1990 Census Transportation Planning Package (i.e., Journey-to-work), the East County Area (stretching from Bay Point to Discovery Bay) had 2.12 workers for every job. Recent changes, such as tabbing Brentwood as California's fastest growing city, appear to make this situation this situation ever worse.

11.02

If the eastern portion of Contra Costa were its own county, this area would have a greater number of out commuters than any other county in the Bay Area. Continuing this pattern of

building more housing than jobs in this part of the county is putting increasing strains on the area's roadway systems.

↑ 11.02

Demographic and Traffic Projections

On Pages IV.C 34 and 35, Tables 20 and 21 show basic household and employment growth in the four East County jurisdictions. Interestingly, there is no growth projected in Brentwood or Pittsburg between 2010 and 2026 either in households or jobs.

↑ 11.03

These assumptions are in direct conflict with ABAG Projections '96 which shows continued growth in both these communities between 2010 and 2015 (Data from Projections '96 does not go beyond 2010).

Another interesting bit of information is found on Pages IV.C-82 and 83 - Tables 30 and 31. These tables show traffic volumes at "Out-of-Area" intersections for 2010 and for 2026. Somehow the 2026 data show less overall traffic volumes than in 2010.

Clearly these demographic and traffic volume forecasts go hand-in-hand. I can say that as a transportation planner who has been involved in preparing and analyzing Bay Area traffic forecasts for the last ten years, this is the first study that projects lower traffic volumes in the longer term analysis than in the shorter term analysis.

↑ 11.04

At this time I don't have the inclination to conduct a detailed analysis of the traffic study that has been undertaken. However, these two problems that I uncovered after only a cursory analysis indicates that there may be substantial problems with the traffic study and its conclusions.

Big Picture - Urban Limit Lines

I don't want to lose the forest from the trees. Looking out at current forecasts to the year 2010, we see extremely congested conditions throughout Contra Costa County. In many ways, the reasons for these conditions lie with the amount of housing forecast to be built out in Eastern Contra Costa County.

Does we really need another massive East County project that will create more workers than jobs?

And most of all, is it good public policy to keep pushing back the existing urban limit lines to continue the policy of unabated urban sprawl?

↑ 11.05

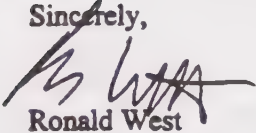
Rather than allowing projects that are outside the existing urban limit lines, Contra Costa County should begin looking hard at the potential for bringing the urban limit lines in so as to

restrict residential growth in East County. Contra Costa County should be taking a hard look at the urban limit line measures recently passed by Sonoma County and city voters.

11.05

Thank you for your consideration of these comments.

Sincerely,



Ronald West
1250 Elmwood Drive
Walnut Creek, CA 94596
(510) 943-5354

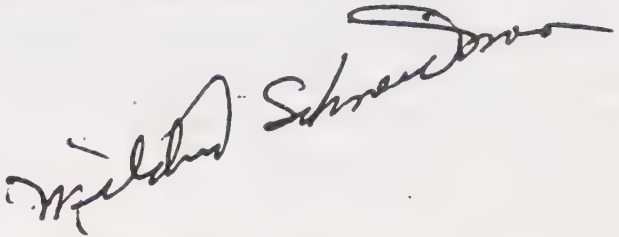
C.C. Greenbelt Alliance, East Bay Office.

November 15, 1996

TO: CONTRA COSTA COMMUNITY DEVELOPMENT DEPARTMENT

FROM: Mildred Schneidman
2320 Plamigan Dr. #2
Walnut Creek, Ca 94595 3509
510/932-8448

RE: COWELL RANCH DEVELOPMENT



I AM GREATLY OPPOSED TO THE PROPOSED COWELL RANCH DEVELOPMENT BECAUSE IT WOULD LEND ITSELF TO CONTRA COSTA COUNTY BECOMING SMOG-INFESTED COMMUNITY, JUST AS LOS ANGELOS HAS DEVELOPED.

IF THESE PLANS OF DEVELOPMENT MATERIALIZE, YOU CAN BET THAT BY THE YEAR 2,000 WE WILL HAVE DETRIMENTAL URBAN SPRAWL, EXACTLY AS SOUTHERN CALIFORNIA HAS DEVELOPED.

In developing these areas, it would be wise to create on-site jobs to keep residents from commuting.

Thank you for consideration of my letter.

12.01

CONTRA COSTA
06 NOV 19 PM 4:18
COMMUNITY
DEVELOPMENT DEPT

860 Sibert Court
Lafayette, CA 94549
November 18, 1996

56 NOV 19 PM 4:18
COMMUNITY
DEVELOPMENT DEPT

Contra Costa Board of Supervisors
Contra Costa Planning Commission
Community Development Department
651 Pine St, North Wing, Fourth Floor
Martinez, CA. 94553.

Dear Sirs:

I am writing regarding the Louell Ranch Development plan and the proposal for establishment of a Marsh Creek Agricultural Preserve.

Over the years, changes in the way we regard our lands have taken place. We have gone from believing beautiful nature was there for us to exploit for individual uses as long as we had a piece of paper guaranteeing our "ownership", to realizing we are but one part of a delicate ecosystem which we must try to understand and nurture.

A number of volunteer local organizations have worked hard and continuously to bring the environmental and quality of lifestyle implications to the public's attention and to acquire lands needing preservation in their natural state.

I hope that the various public bodies reviewing the above proposals will accept their responsibilities to conserve our precious and dwindling natural resources.

Yours sincerely,
Jayce H. Laird

1301

PARC

PRESERVE AREA RIDGELANDS COMMITTEE



November 18, 1996

1262 Madison Ave.
Livermore, CA 94550-5020

Board of Directors

President,
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H. David Glenn
Pleasanton, CA 94588

Dan Henriques
Sunol, CA 94586

Harvey Bragdon
Jim Cutler
Contra Costa County
Community Development Department
FAX 335-1599

Subject: Hearing at 1:30 p.m., Nov. 18, on Cowell
Ranch development

We would like to go on record supporting the
Greenbelt Alliance in opposition to the proposed
project.

14.01

We feel there should be greater support for the
regional goals adopted by the Association of Bay
Area Governments. Last year Contra Costa County
participated in the intensive planning process
regarding the Tri-Valley area. These goals are
equally applicable to the Cowell Ranch area. The
proposed development is inconsistent with the
ABAG regional goals. Please refer especially to
items 1 and 2 on the enclosed list of 7 goals.

1402

Yours truly,

Board of Directors PARC
by *Margaret J. Tracy*
Margaret J. Tracy, President

1 attachment

96 NOV 19 AM 10:31
COMMUNITY
DEVELOPMENT DEPT

RECEIVED

The Tri-Valley jurisdictions have a successful record of cooperative planning and action for transportation and affordable housing. There is a strong continuing commitment to implement the objectives and policies of the Strategy.

The Strategy will be directed toward the following regional goals adopted by the Association of Bay Area Governments and supported by the TVPC in its proposal for the ABAG grant. There have been some modifications to the language of these goals to fit the particular conditions of the Tri-Valley.

1. A pattern of compact, city-centered growth in the urban areas of the San Francisco Bay Area, with a balance of land uses guided into or around existing communities in order to preserve surrounding open space and agricultural land, as well as environmentally sensitive areas.
2. Growth directed to where infrastructure capacity is available or committed including, but not limited to, freeway, transit, water, solid waste disposal, and sewage treatment, and where natural resources will not be overburdened, and discourage urban growth in unincorporated areas.
3. Development patterns and policies that discourage long distance, single-occupant automobile commuting and increase resident access to employment, shopping, and recreation by transit or other non-auto means.
4. Firm urban growth boundaries with streamlined procedures that permit and direct development within these boundaries.
5. Increased housing supply, with a range of types and affordability and a suitable living environment to accommodate current and future workers and households.
6. Long-term protection and enhancement of agricultural land, ecologically sensitive areas, and open space, and of other irreplaceable natural resources necessary to the health, economy, and well-being of present and future generations, and to the sustainable ecology of the region.
7. Economic development which provides jobs for current and future residents, increases the tax base, supports and enhances California's position in the global marketplace, and helps provide the resources necessary to meet vital environmental, housing, transportation, and other needs.

JAMES A. ERICKSON, D.Min., MFCC
312 Grovewood Loop
Brentwood, CA 94513
(510) 634-4973

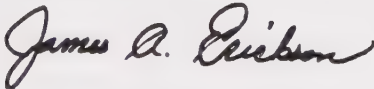
11/19/96

Community Development Department
651 Pine Street
North Wing, Fourth Floor
Martinez, CA 94553

I am writing to protest the Development of Cowell Ranch. As an eleven-year resident and small business owner in Brentwood, I have watched our community "sell out" to development (to the extent that we are now the fastest growing city in the State of California) without any regard for the quality of life, traffic congestion, potential smog problems, open space, our rich agricultural heritage, or preserving fragile or endangered wildlife species. I cannot imagine how any further growth will not "tip the balance" to permanently jeopardize what we have left.

1501

Sincerely,



James A. Erickson

96 NOV 22 PM 3:51
COMMUNITY
DEVELOPMENT DEPT

NOV 19 1996

21 November 1996

File No.: 96-CC-112E

re: DEIR Cowell Ranch GPA

Dear Staff:

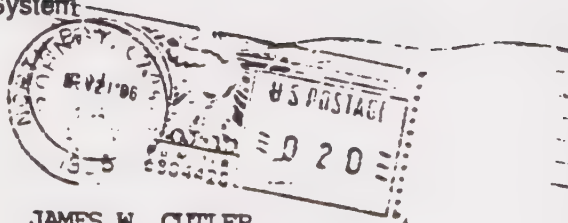
Our office has no additional comment on the above referenced document. However, thank you for your continued concern for protecting historical resources.

16.01

Sincerely,

Leigh Jordan
Leigh Jordan
Coordinator, NWIC

Historical Resources Information System
Northwest Information Center
Sonoma State University
1801 East Cotati Avenue
Rohnert Park, CA 94928-3609



JAMES W. CUTLER
CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT DEPT
651 PINE ST, NORTH WING-FOURTH FLOOR
MARTINEZ CA 94553

CONTRA COSTA

NOV 22 PM 4:01

COMMUNITY
DEVELOPMENT DEPT



ALAMEDA COUNTY PLANNING DEPARTMENT

• Development Planning • Housing & Community Development • Lead Poisoning Prevention • Policy Planning & Research • Zoning Administration & Enforcement

399 Elmhurst Street, Hayward, CA 94544 (510) 670-5400 FAX (510) 785-8793

November 27, 1996

James Cutler, Assistant Director
Comprehensive Planning
Contra Costa County Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, CA 94553

56 DEC -3 PM 4:21
COMMUNITY
DEVELOPMENT DEPT

Re: Draft Environmental Impact Report, Cowell Ranch General Plan Amendment

Dear Mr. Cutler:

Thank you for the opportunity to comment on the Cowell Ranch General Plan Amendment Draft Environmental Impact Report. The following expresses our concerns for the proposed development as it may affect current Alameda County General Plan policies and infrastructure use. We request that these concerns be addressed in the forthcoming EIR.

Transportation

Alameda County has adopted a gateway policy discouraging the widening of Vasco Road. As stated in Policy 164A of the Alameda County East County Area Plan, adopted May 5, 1994, "Improvements that would expand the capacity of the Altamont Pass and Vasco Road gateways leading into the planning area from San Joaquin and Contra Costa Counties would be inconsistent with the policies of this plan."

We acknowledge that pages IV.C-55 and IV.C-56 of the EIR state that widening Vasco Road is not considered a feasible mitigation of the unavoidable significant adverse impact on Vasco Road posed by the project. However, we are concerned that the full impact on Vasco Road has not been adequately assessed in the document. In particular, the peak hour traffic volumes on Vasco Road estimated for the years 2010 and 2026 seem rather low given the location of Cowell Ranch relative to Vasco Road and the distribution of employment in the Bay Area. Please present in the document your assumptions of the numbers and ratios of Cowell Ranch residents who will be working on-site, in Contra Costa County, in Alameda County, and in San Joaquin County.

Similarly, we find that presenting household and employment growth figures only for Contra Costa County provides an incomplete picture of the growth and travel in this region. (See Tables 20 and 21.) Current trends in employment and travel in the East County and Tri-Valley areas of both Contra Costa and Alameda Counties disregard jurisdictional boundaries and show an

17.01

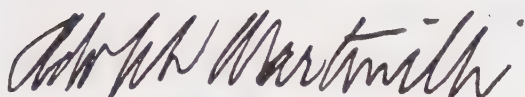
17.02

increasing interdependence of these counties with San Joaquin County and Santa Clara County. Please show figures of the expected growth of employment and households in areas of Alameda and San Joaquin Counties (i.e. Tri-Valley area, Stockton/Tracy/Manteca) which are adjacent to the project site and discuss these areas as potential trip attractors for Cowell Ranch residents. In addition, please consider specifically the impacts of proposed projects in the vicinity of Cowell Ranch, particularly North Livermore and Mountain House.

↑
17.02

We appreciate the opportunity to comment on the Cowell Ranch General Plan Amendment Draft Environmental Impact Report. Please contact Sylvia Star-Lack at (510) 670-6511 if you have any questions about these comments.

Sincerely,



Adolph Martinelli
Director, Community Development Agency

cc: Each Board Member
Don LaBelle, Public Works Director

SWC

COMMUNITY DEVELOPMENT

95 DEC -3 PM 3:52

Mrs. Wm. L. Hoisington
959 Hawthorn Drive
Lafayette, California 94549

COMMUNITY
DEVELOPMENT DEPT

November 29, 1996

C.C. Community Development Department
651 Pine Street
North Wing - Fourth Floor
Martinez, CA 94553

Dear Madame, Sir:

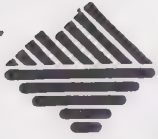
I spent my first twenty-five years watching greedy developers destroy the once-gorgeous Los Angeles Basin. Does any of them still live there? I doubt it!

We all see the same thing happening to our County. The rich agricultural gem land of east county must not be allowed to disappear under rows and rows of houses.

Please STOP this mad development.

Very truly yours,
Mary Ann Hoisington
(Mrs. Wm. L.)

18.01



**CONTRA COSTA
WATER DISTRICT**

1331 Concord Avenue
P.O. Box H20
Concord, CA 94524
(510) 688-8000 FAX (510) 688-8122

CONTRA COSTA

06 DEC -3 PH 4:21

CONTRA COSTA
DEVELOPMENT DEPT

December 2, 1996

Directors

Joseph L. Campbell
President

James Pretti
Vice President

Elizabeth R. Anello
Bette Boatman
Noble O. Elcenko, D.C.

Walter J. Bishop
General Manager

Via Fax: (510) 335-1299

James W. Cutler
Assistant Director of Comprehensive Planning
Contra Costa County
651 Pine Street, 4th Floor, North Wing
Martinez, CA 94553

**Subject: Draft EIR on Cowell Ranch General Plan Amendment,
Rezoning, and Related Entitlements**

Dear Mr. Cutler:

Thank you for the opportunity to review and comment on the Cowell Ranch project draft EIR. The project is not within the service area boundaries of the Contra Costa Water District (CCWD); however, CCWD is discussed in the draft EIR as a potential source of water. CCWD's comments relate primarily to chapter IV.F.1, Public Facilities and Services, Water Supply.

CCWD is concerned, as noted below, that certain invalid assumptions have been made concerning water supplies for the project. Consequently, it is not clear that a source of water for the project has been completely or accurately identified. Furthermore, full impacts of using a Delta source have not been identified or discussed. Both of these concerns should be addressed in the final EIR.

The project site, consisting of approximately 4,277 acres, is bounded by Walnut Boulevard on the east, Marsh Creek Road/Camino Diablo on the south, Deer Valley Road on the west, and Briones Valley Road and Concord Avenue on the north. The comments are provided in the sequence of the document. Recommended wording changes are shown in **bold**.

Figure 16. The symbols depicting the Los Vaqueros Reservoir are incorrect in two ways. First, the Reservoir site and shape imply a water surface area larger than planned. Second, the surface area is shown as the extent of public ownership, when actually the entire watershed is intended to be acquired by CCWD. The CCWD currently owns approximately 80 percent

19.01

of the watershed area. Please contact Mr. Dennis Pisila at CCWD for an accurate rendering of the reservoir and watershed.

↑
19.01

Part IV.F - 2 Existing Surface Water Sources (a) Contra Costa Water District (CCWD). In the second sentence, change the word "most" to **much** and delete the words "portions of".

19.02

Figure 49. The CCWD service area boundaries for both treated water and untreated water should be updated. Again, please contact Mr. Pisila for current boundary information.

19.03

Page IV F-4. Second paragraph, lines 2 and 3. Make "diversions" singular and delete the words "locations on". CCWD will be diverting water from only one location on Old River, immediately south of Highway 4 near Discovery Bay. Third paragraph, line 4 change "Inter-Agency Agreement" to "**Improvement Act**". Third paragraph, last line, change spelling to "**Mallard**" Slough. Last paragraph. The 20-year period designated in the paragraph is for the purchase of Block A water only (8,000 acre-feet per year). CCWD has options on two other blocks. CCWD and the City of Brentwood also have entered into an agreement that provides for the sale of 7,000 acre-feet of Block A water to the City of Brentwood. CCWD and the City of Brentwood are negotiating concerning other portions of that supply. Please contact Mr. Pisila to obtain accurate information on the characterization of these agreements and supplies.

19.04
19.05
19.06
19.07

Page IV, F-5. Second paragraph. Generally, CCWD does not distribute water in the project vicinity. It sells water wholesale to Antioch and the Diablo Water District (DWD), who treat the water and distribute it to their customers. DWD is a joint owner of the Randall-Bold plant, with capacity rights to 15 mgd of the existing 40 mgd. Line 2. Replace "just east of the town of" with **in** (note: Oakley is not incorporated, and the Randall-Bold Treatment Plant is located in southern Oakley). Last line - the Randall-Bold Treatment Plant was designed to allow expansion capacity to 80 mgd, but no plans have been prepared for such an expansion. This sentence appears to be a misquote. Footnote 2. Change the spelling to "**Karl Voigt**". Second to last paragraph. ECCID has pre-1914 water rights. ECCID should be contacted for a precise description of their rights.

19.08
19.09
19.10
19.11
19.12

Page IV, F-8, first paragraph, line 1. Add **on an interim basis** after "water supply needs". Line 2. Insert "**per year**" after "7,000 acre-feet". Line 3. Add "**up to 3,000 acre-feet per year of**" to the beginning of this sentence. Line 4. Add **current** before "40 mgd capacity" for consistency with the Randall-Bold Treatment Plant design capacity.

19.13

Page IV, F-20, last paragraph. The document identifies a net potential increase in diversions from the Sacramento-San Joaquin River Delta due to the project. However, it does not appear to have examined the impact of that potential increase in diversions on fisheries resources in the Delta. In particular, the Draft EIR has not examined the impact of the timing of the diversions, changes in the timing of diversions and the volume of the

19.14
↓

diversions on Delta fisheries, including the impact on Federally listed threatened and endangered species, including delta smelt and winter-run Chinook salmon. The impact on those species and other species of concern, including steelhead, Sacramento splittail and longfin smelt should be examined and discussed.

19.14

Page IV, F-21, first paragraph: It is not apparent that Brentwood's purchase of 7,000 acre-feet per year from CCWD's entitlement from ECCID will be sufficient to meet the future demands of both the project and the City as implied in the penultimate sentence. In fact, it is CCWD's understanding that additional water supplies would be required to meet the Cowell Ranch project demands and that the City continues to examine additional water supply sources. Consequently, it is not clear that a supply has been identified. CCWD and the City of Brentwood have recently started negotiations on additional supplies.

19.15

Also, it is not clear what is meant by the statement that ECCID's existing system capacity is sufficient to meet project water demand. If this refers to ECCID's diversion and distribution facilities, it may not be relevant to this section and it may not be meaningful since there are no associated treatment facilities. Please add language that would define the system capacity and establish its link to effects on Delta water.

19.14

Page IV, F-22, second paragraph, line 4. Delete both "County" references in LAFCO and replace the second "County" with **interagency** for consistency with the intent of Footnote 1 on Page IV, F-2, which should also have "County" deleted.

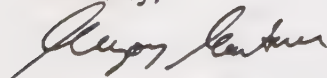
19.17

Page IV, F-25, first paragraph following Impact, lines 7 and 8. The relevance of "the Los Vaqueros Reservoir will also improve the reliability of the District's water supply" is uncertain within the context of the Cowell Ranch water supply. CCWD's water quality and reliability objectives for the Los Vaqueros project apply only to its service area and the Los Vaqueros Planning Area, which does not include the Cowell Ranch area. Furthermore, the Los Vaqueros Project does not provide a drought supply, but provides for reliability through emergency storage. The sentence should be deleted or clarified to accurately characterize the Los Vaqueros Project.

19.18

If you have any questions on the comments or require further information on CCWD's comments, please contact Dennis Pisila, Senior Planner at (510) 688-8119.

Sincerely,



Gregory Gartrell
Director of Planning

GG:DP:nb



PETE WILSON
GOVERNOR

State of California

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET
SACRAMENTO 95814

CONTRA COSTA



55 DEC -5 PM 2:56 LEE GRISSOM
DIRECTOR

CONTRA COSTA
COMMUNITY DEVELOPMENT DEPT

December 2, 1996

JAMES CUTLER
CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT DEPT
651 PINE ST. N.WING 4TH FLOOR
MARTINEZ, CA 94553-0095

Subject: COWELL RANCH GENERAL PLAN AMENDMENT, REZONING #1-92-00
SCH #: 93013024

Dear JAMES CUTLER:

The State Clearinghouse submitted the above named environmental document to selected state agencies for review. The review period is closed and none of the state agencies have comments. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call at (916) 445-0613 if you have any questions regarding the environmental review process. When contacting the Clearinghouse in this matter, please use the eight-digit State Clearinghouse number so that we may respond promptly.

Sincerely,

ANTERO A. RIVASPLATA
Chief, State Clearinghouse

Notice of Completion

Appendix W

Mail to: San Clearinghouse, 1400 Third Street, Sacramento, CA 95814 916/445-0613

See NOTE below

SCH # 93013024

Project Title: Covell Ranch General Plan Amendment, Rezoning & Related Entitlements #1-97-01

Lead Agency: Contra Costa County Community Development Dept Contact Person: James W. Outler

Review Address: 651 Pine Street, N. Wing - 4th Floor Phone: (510) 335-1236

City: Martinez Zip: 94553-0095 County: Contra Costa

Project Location

County: Contra Costa City/Township: Brenwood
 Class Source: Marsh Creek Road and Walnut Boulevard Total Acres: 4.277
 Assessor's Parcel No. VARIOUS Section: 1N Range: 2E Base: Brenwood
 Width 1/2 Mile: 4 Waterway: None
 Airports: East Contra Costa Railways: Southern Pacific Railroad

Document Type

CEQA: ☒ NOP ☐ Supplemental/Amendment ☐ NEPA: ☐ NOI ☐ Other: ☐ Joint Document
☐ Early Conc ☐ EIA (Prior SCH No.) ☐ EA ☐ Final Document
☐ Neg Det ☐ Other ☐ Draft EIS ☐ FONSI ☐ Other

Local Action Type

☐ General Plan Update ☐ Specific Plan ☐ Scenario ☐ Amendment
☐ General Plan Amendment ☐ Master Plan ☐ Process ☐ Redevelopment
☐ General Plan Element ☐ Planned Use Development ☐ Use Permit ☐ General Plan
☐ Community Plan ☐ Set Plan ☐ Land Division (Subdivision, Parcel Map, Tract Map, etc.) ☐ Other

Development Type

☒ Residential: Units 5,226 Acres 1.296 ☐ Water Pollution: Type Wells - other MGD
☐ Office: Sq Ft 0 Acres 0 Employees 0 ☐ Transportation: Type CA
☐ Commercial: Sq Ft 0 Acres 0 Employees 0 ☐ Mining: None None None
☐ Industrial: Sq Ft 0 Acres 0 Employees 0 ☐ Power: Type None None None
☐ Educational: None None None ☐ Waste Treatment: Type None None None
☐ Recreational: None None None ☐ Hazardous Waste: Type None None None

Project Issues Discussed in Document

☒ Ambient/Air ☐ Flood Plain/Flooding ☐ Schools/Universities ☐ Water Quality
☒ Agricultural Land ☐ Forest Land/Forest ☐ Septic Systems ☐ Water Supply/Groundwater
☐ Air Quality ☐ Geology/Seismic ☐ Sewer Capacity ☐ Wetland/Regulation
☐ Archaeological/Historical ☐ Marine ☐ Soil Erosion/Compaction/Grading ☐ Wildlife
☐ Coastal Zone ☐ Noise ☐ Solid Waste ☐ Growth Inducing
☐ Drainage/Abandonment ☐ Population/Housing Balance ☐ Toxic/Hazardous ☐ Land Use
☐ Economic/Other ☐ Public Services/Utilities ☐ Traffic/Commutation ☐ Cumulative Effects
☐ Fiscal ☐ Recreation/Parks ☐ Vegetation ☐ Other

Present Land Use/Zoning/General Plan Use: Existing Cattle Ranch, Zoned A-4 (commercial agriculture), Existing General designation is Agricultural Lands

Project Description: This project is for the Covell Ranch General Plan Amendment, rezoning to Planned Unit Development and related project entitlements. The project site, consisting of approximately 4,277 acres of the Ranch, is roughly bounded by Walnut Blvd. on the east, Marsh Creek Rd/Camino Diablo on the south, Deer Valley Rd on the west, and Briones Valley Rd and Concord Ave on the north. Approximately 2,185 acres fall on the urban side of the Urban Limit Line and approximately 2,092 acres lie outside the Urban Limit Line. Urban development is occurring immediately adjacent to the property along Concord Avenue.

State Clearinghouse Contact: Ms. Angel Howell
 (916) 445-0613

Project Sent to the following State Agencies

State Review Began: 10-17-96
 Dept. Review to Agency: 11-25
 Agency Rev to SCH: 11-29
 SCH COMPLIANCE: 12-2

Please note SCH Number on all Comments
93013024

Please forward late comments directly to the Lead Agency

AQMD/APCD 2 (Resources: 10,119)

☒ Resources
☐ Boiling
☐ Coastal Comm
☐ Coastal Conserv
☐ Colorado Rvr Bd
☐ Conservation
☒ Fish & Game # 3
☐ Delta Protection Commission
☐ Forestry
☒ Parks & Rec/OHP
☐ Reclamation
☐ BCDC
☐ DWR
☐ OES
☐ Bus Transp Hous
☐ Agriculture
☒ CHP
☐ Caltrans # 4
☐ Trans Planning
☐ Housing & Devel
☐ Health & Welfare
☐ Dept of Health
☐ Medical Waste

State/Consumer Svcs
 General Services
 Cal/EPA
☒ ARB
☐ CA Waste Mgmt Bd
☐ SWRCB: Grants
☐ SWRCB: Delta
☐ SWRCB: Wtr Quality
☐ SWRCB: Wtr Rights
☒ Reg. WQCB # 2
☐ DTSC/CTC

Yth/Adlt Corrections
 Corrections
 Independent Comm
 Energy Comm
 NAHC
 PUC
 Santa Mn Mtns
☒ State Lands Comm
☐ Tahoe Rgl Plan
☒ Other: PLA
☒ Food/AQ

Barbara A. Alexander
1980 Montclair Circle
Walnut Creek, CA 94596
510-935-3513

12774 00314

55 DEC 10 PM 2:42

CONTRA COSTA
DEVELOPMENT DEPT

7 December, 1996

Contra Costa Community Development Department
651 Pine Street
North Wing, Fourth Floor
Martinez, CA 94553

RE: Cowell Ranch Development Proposal

Dear Sir/Madam:

I understand that a Draft EIR has been completed for the proposed Cowell Ranch development. This document raises what I believe are several serious issue about the propriety of this type of development for the property.

1. I question the appropriateness of developing property that would require a shift in the county's urban limit line for property otherwise set aside as open space.

21.01

2. Additionally, as most of us are aware, as residential development begins to abut agricultural lands, the ability of neighboring farmers to operate begins to become impeded. This is prime agricultural land that ought not to be used to "grow" houses and roads.

21.02

3. I recently saw a map of the County which highlighted approved and proposed development. The number of additional housing units is staggering. The impact from the traffic cannot be ignored. This Cowell Ranch development would necessitate additional road construction in the immediate area and the anticipated traffic would violate air-pollution standards. After years of enduring the Hwy. 24/ 680 Freeway construction project, this type of development in East County would put us back where we were before the construction project as the traffic flows westward to workites.

21.03

4. Additionally, these additional housing units will only serve to overdevelop that area of the county. Current homeowners cannot sell their houses due to the continual addition of new units and this proposed development will further destabilize the local housing market.

21.04

I urge no revisions be made to the county plan to accomodate this development and that this development NOT be approved.

Very truly yours,

Barbara Alexander

B. A. Alexander

01/01/1996

Sat.7 Dec.1996

95 DEC 10 PM 2:21

DEVELOPMENT DEPT

Dear Contra Costa Community Development Dept.

Do NOT allow the Cowell Ranch development to be built. Contra Costa is in the midst of a development crisis that is destroying our quality of life. Commute times, air pollution and urban sprawl are all increasing while wildlife, open space and rural peace are all becoming scarce.

A small group of developers are becoming extremely wealthy by destroying our communities. Local governments that should be protecting the citizens of this County from greed and ruin instead give the okay to every blight on the landscape that these developers can dream up. There is NO ECONOMIC ADVANTAGE to uncontrolled growth. All new taxes from all these new taxpayers will only go to increase the infra-structure. More freeways. More police (and more crime). More reservoirs. More trash dumps.

What will be the results of Contra Costa's "development boom To see our future if we continue on, in this irresponsible and short-sighted manner just look southwards to Los Angeles!

There is still time to save much of Contra Costa if we have the will and the vision to do so. I will repeat the sentence I opened this letter with. Do NOT allow the Cowell Ranch development to be built.

A response detailing your position on this issue would be appreciated. Thank you.

Most sincerely,

Marck Menke

643 Francis Drive
Lafayette CA 94549

2201

December 8, 1996

Contra Costa Community Development
651 Pine Street
North Wing, Fourth Floor
Martinez, CA 94553

96 DEC 10 PM 2:21

CONTRA COSTA
COMMUNITY
DEVELOPMENT DEPT

To whom it may concern:

This letter is in regards to the Cowell Ranch project in the foothills of Mt. Diablo near Brentwood. We are concerned about the effects of increased development in that area of Contra Costa County.

The Cowell Ranch project would:

- destroy many acres of greenbelt and increase development pressure on surrounding open space.
- urbanize 350 acres of prime soils and make operations difficult for farmers in the area.
- close Marsh Creek Road, increase subsidized road construction and increase motor vehicle emissions.
- destroy wildlife habitat, wetlands and other aquatic habitat.
- exacerbate the jobs-to-housing imbalance.
- destabilize the existing local housing market.

23.01

We urge you to say yes to agricultural preservation, adequate infrastructure, wildlife habitat, cleaner air, lower taxpayer costs for services, responsible growth, and the quality of life that makes Diablo Country so special. Please say no to the Cowell Ranch Project.

Sincerely,

Cheryl Bluestein *Jordon Bluestein*

Cheryl and Jordon Bluestein
3183 Wayside Plaza #114
Walnut Creek, CA 94596

lois brubeck

moroccan tribal rugs and weavings

12/9/96

Contra Costa Community Devel. Dept.
651 Pine St.
N. Wing, Fourth Floor
Berkeley CA 94703

CONTRA COSTA
DEVELOPMENT DEPT

96 DEC 11 PM 3:57

CONTRA COSTA

This is to urge opposition to the proposal
of development of the Orwell Ranch. Immediate
returns may be appealing, but in the
long term, the preservation of open space and
some natural beauty provides greater riches -
both human and economic. Land values in
areas of controlled growth will always be
higher than in areas of suburban sprawl.

24.01

Lois S. Brubeck

731 Crawford Ave, Berkeley, CA 94708

12-9-94
Dear Contra Costa Community Development
Department-

Please, please reject Cowell Ranch
for the responsible & loving reasons
outlined by Sierra Club in Yodanis, Dec. 4.
Cleaner air, wildlife, fairer taxpayer costs
etc. are all sufficient reasons. Be wise. 25.01
Wisdom is so needed now. Sincerely,
Jane Byrnes
Piedmont, CA

J Byrnes
332 Jerome Ave.
Piedmont CA 94610



1230 1271107EADG
12 12 1994

5:3 PM 11 1230 95

715021 1230

Contra Costa Com Devel. Dept.
651 Pine St.
North Wing, Fourth Floor



1
Donald K. Freedman, M.D.

1547 BUCKEYE COURT
PINOLE, CALIFORNIA 94564
(510) 724-3742

12/10/96

CCCCD
651 Pine
Martinez, Ca.

Re: Corwell Ranch
Proposed

Sirs:

This proposal seems clearly to
be not in the interest of Contra Costa
County and its inhabitants. The dangers
hinge on many factors such as
destroying an important apple orchard,
upbatizing hundreds of acres of prime
nearly ever-lasting soil, increased
air pollution, eliminating many
hundreds of acres of greenbelt.

Then too, the pressure on
surrounding open space and agriculture
would increase inordinately. New
roads would have to be built.

The San Joaquin kit fox would lose
potential habitat as well as the Calif.
tiger salamander and fairy shrimp.
Wetlands would also be destroyed.

Since there already is a

26.01

2

Donald K. Freedman, M.D.

1547 BUCKEYE COURT
PINOLE, CALIFORNIA 94564
(510) 724-3742

backlog of 15000 housing units
already approved in Brentwood
and Antioch, but yet to be built
approval of Cowell Ranch would make
conditions worse in all respects.
There is no necessity for it but
innumerable objections to it.

I believe that the county
and the people and the environment
would all suffer from approval by
the Board of this proposal.

Sincerely

Donald Freedman

96 DEC 12 PM 2:29
COUNTY OF ALameda
DEVELOPMENT DEPT

001164 00614

26.01

Tino Bacchini
1901 Concord Avenue
Brentwood, California 94513

Comments on the Cowell Project EIR
December 11, 1996

97 JAN -9 AM 10:55

RECEIVED
BACCHINI

1. Highway 4 Bypass southeast of Concord Avenue through the Cowell property.

On February 5, 1996, Cowell offered to buffer the mitigated project alignment with an earth berm to visually eliminate the vehicles on the roadway through their property. The noise arising from that alignment was to be further reduced with dense vegetation and trees maintained in a landscaping district by the Cowell project. This added buffering is to help compensate the adjacent land owners for the added impacts of the mitigated Project Alignment.

27.01

The EIR does not cover this responsibility. The EIR states that impacts on roads adjacent to the Cowell project are not mitigated. As a land owner and home owner living next to the Cowell project, this is not acceptable. The impact of this project as it effects surrounding home owners and land owners must be mitigated totally.

27.02

Roads that serve our rural area are over-taxed now with commuter traffic. To purpose a plan of this magnitude without meeting all of its impacts is unconscionable.

Thank you,



Tino Bacchini



Liberty Union High School District

20 Oak Street

Brentwood, CA 94513

Phone: (510) 634-2166 Fax (510) 634-1687

Daniel M. Smith, Superintendent

December 11, 1996

Mr. James Cutler
Contra Costa County Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, CA 94553

Re: Draft Environmental Impact Report
Cowell Ranch General Plan Amendment
Rezoning and related Entitlements
County File #1-92-CO, Rezoning #RZ933014

96 DEC 12 PM 2:30
CONTRA COSTA
COMMUNITY
DEVELOPMENT DEPT

JANITA COSTA

Dear Mr. Cutler:

This correspondence sets forth the comments of the Liberty Union High School District relative to the proposed Cowell Ranch General Plan Amendment (the "project") within the County of Contra Costa (the "County"), which the Project area is also entirely within the boundaries of the District, and the Environmental Impact Report ("EIR") for the Project. The District is requesting that the County require the Project applicant to participate in the East Contra Costa County School Facilities Funding and Mitigation Agreement ("Mitigation Agreement") with the District to mitigate the impacts of the project on the District's school facilities prior to approval of the Project. Absent of such an executed Mitigation Agreement, the District objects to the approval of the Project on the basis that the significant environmental impacts of the Project on the District have not been addressed satisfactorily to a less-than-significant level for purposes of the California Environmental Quality Act ("CEQA"). The District further objects on the basis that approval, absent of an executed Mitigation Agreement, is inconsistent with the General Plan. In addition, the District objects to the approval of the Project in that the proposed General Plan and Land Use Elements do not provide for a school site for a grade level 9-12 senior high school. The absence of this Land Use provision within the Project approval is inconsistent with the County's General Plan Policies, Conditions for a 21st Century Community, and Principles and Guidelines for Cowell Ranch. In this regard the District submits the following comments relative to the approval of the Project and the draft EIR.

Condition of Approval

The EIR indicates that the Land Use designations proposed by the Project anticipates the development of 5,226 residential units in the Project area (EIR, Project Description, page III-42). Of this total 693 units are designated as senior multi-family residential units. This amount of development, 5,226 units, represents a significant amount, nearly 36%, of the total development that is "on the books" currently both in the County and the City of Brentwood. The EIR calculates that the Project will generate 583 grade level 9-12 students based on the District's Student Yield factors for single and multi-family housing, allowing for the senior housing portion of the Project. The senior housing units are within the 1,979 Multiple Family Residential Low Land Use designation (EIR Project Description, page III-22 and 42). The Multiple Family Residential Low designation allows for densities of 7.5 to 11.5 units per new acre and would include single family detached housing, attached townhouses, and multiple family flats, (EIR Project Description, page III-22). Detached single family housing within this land use designation would generate students associated with the District's historic multi-family yield factor of 009, (EIR Public Facilities and Services, page IV.F-79). Since by definition a portion of these units will be single family detached the EIR calculation of students generated is incorrect.

2801

If 20% of the remaining 1,286 Multiple Family Residential Low units (257 units) are single family detached units and therefore, generate students associated with that housing type, then Table 50 (EIR Public Facilities and Services, page IV.F-79) should be modified to reflect that the Project will generate 609 grade level 9-12 students at the time of the Project buildout. The EIR concludes that the Project, based on the amount of students generated, "represents a potentially significant impact" (EIR Public Facilities and Services, page IV.F-84).

28.01

The EIR further states the following mitigation of the potential significant adverse environmental impacts as a result of the Project (EIR Public Facilities and Services, page IV.F-85 and 81):

"Require the applicant to (1) comply with applicable BUSD/LUHSD impact fee requirements, and (2) as a requirement of the County's development agreement with the applicant, and as recommended in the County's Conditions for a 21st Century Community (Condition 2, page 15), to submit a project school financing and cost distribution plan, to be established prior to the recording of each subsequent final subdivision map, which demonstrates to County (or City) satisfaction that sufficient funding will be available as and when needed to construct school facilities sufficient to comply with applicable County or City policies and standards. Funding measure may include applicant participation in East Contra Costa County School Facilities Funding and Mitigation Agreement. These measures would mitigate the impact to a less-than-significant level."

In this regard the District desires to emphasize the necessity to condition the approval of the Project upon full mitigation of the significant adverse environmental effects which result if the District's school facilities requirements are not met in time to meet the need, as required by the County's General Plan, Conditions for 21st Century Community, and Principles and Guidelines for Cowell Ranch. A condition to submit a school financing and cost distribution plan is not specific and does not meet this need or requirement on behalf of the District. The County Board of Supervisors have granted approvals to development projects that contained non-specific Conditions of Approval on behalf of school districts in the East County area such as WillService Letter requirements. Requiring a school financing and cost distribution plan is a non-specific condition. The County approved these projects on the basis that, 1) a level playing field was needed for all projects including those projects within the County's jurisdiction and the City of Brentwood's jurisdiction, and 2) the District had not formulated a specific agreement with the development community for which the County could specifically refer to and include as a Condition of Approval requirement. The District has provided a Mitigation Agreement that allows each developer flexibility in mitigation payments, provides a level playing field for those developments in the County and the City of Brentwood, and is executed by individuals organizations representing 6,000 units. The District has met and satisfied the concerns for which the County previously had approved projects without requiring full mitigation.

28.02

In order to fully mitigate the impacts from the Project the District requests that the County's Condition of Approval require the applicant to enter into the District's existing Mitigation Agreement.

School Site

The District has identified an impact as a result of new residential development and need for a third high school site for the construction of a comprehensive high school within the next ten years, depending on the amount and rate of new residential development. More than 14,500 units have been identified by the District as being "on the books." A portion of this need is a result of the significant adverse environmental impacts of the Project. The EIR states, (Public Facilities and Services, page IV.F-84):

"For the purposes of this EIR, it is assumed that the 583 high school students generate by the project (see Tables 50 and 51) would attend an offsite school or schools, since the project does not propose an onsite high school. At this time it is not known if project residents would attend Liberty Union High School in Brentwood, the new high school now under construction in Oakley, or a third high school that is under consideration at an as-yet undetermined location. A potential high school site on the Cowell Ranch property has

28.03

six possible sites for the third high school. Supplemental environment review would be required if this option were to be pursued in the future."

Up to the distribution of the draft EIR the Project contained a site for a future high school. The City of Brentwood's General Plan illustrates a future high school site within the boundaries of the Project, referred in their Land Use Map as SPA "J". The General Plan also illustrates an additional future school site in SPA "G". The District supported these site locations as the City adopted its General Plan review in 1993. The District has had the site reviewed by officials from the State Department of Education. The District has held numerous discussions with representatives of the Cowell Foundation on the need and appropriateness of the previously proposed site, located along Concord Avenue and Briones Valley Road. Specifically, based on the State review, the District requested additional information and/or clarification regarding the existing gas lines that are either adjacent to or cross the site, the location of the earthquake fault line near the proposed site, air emissions from the PG&E facility and proposed roadways, and development phasing. These requests are consistent with the provisions listed in the EIR, State School Facility Site Selection Standards, (Public Facilities and Services, Page IV.F-77). To date, none of these requests for information or clarification have been responded to, allowing the District to adequately evaluate the appropriateness of the previously proposed site. In this regard, the District has not stated it no longer needed or considered this site. The arbitrary elimination of a site within this project is not consistent with the interests of the District.

The EIR states if the District desired a site.... "Supplemental environmental review would be required if this option were to be pursued in the future." (Public Facilities and Services, Page IV.F-85). The District cannot make a determination as to the appropriateness of this site until such time concerns regarding State School Facility Site Selection Standards are resolved, requiring detailed information from the Project applicant. A third site will be needed to serve residential growth in the south central boundary of the District. A site within the proposed Project boundary would meet this need. In this regard, the District requests that this environmental review consider a future high school site within the Project boundary adjacent to Concord Avenue and Briones Valley Road, or in another suitable location within the project boundaries. Mitigation Measures for this proposed site should be consistent with those listed for Impact PF-22: School Siting Impacts, (Summary, Page II-36) for Transportation, Noise, Public Health and Safety, and Soils and Geology.

It should be noted that Government Code Section 65300.5, requires a finding of consistency between a project and the General Plan. In order to fully mitigate the impacts as a result of the Project the District requests that the applicant join the Mitigation Agreement with other City of Brentwood and County developments and provide for an onsite future school site.

We would be pleased to answer any questions you may have and provide further information if you require.

Sincerely,

Daniel M. Smith
llw
Daniel M. Smith
Superintendent

DMS:llw

28.03

The Rev. Sumner Walters, Jr.
1217 Skycrest Dr. #3
Walnut Creek, California 94595-1811

03514

95 DEC 12 PM 2:01

COMMUNITY
DEVELOPMENT DEPT

December 11, 1996.

Contra Costa Community Development Dept.
651 Pine Street
North Wing, Fourth Floor
Martinez, CA. 94553.

Dear Friend,

We wish to state our opposition to the Draft Environmental Impact Report on the Grall Ranch Development. We cannot attend today's hearing in Brentwood.

We oppose this Grall Ranch development because it will urbanize many acres of agricultural and greenbelt property and add to the pollution of the County air, the density of our urban sprawl and the terrible congestion of our highways and freeways.

We think that the Brentwood neighborhood already has sufficient housing units, built or approved for construction. We think that the developer's greed is uncontrolled and should be limited. The welfare of human life and wildlife shall take precedence over this push to further urbanize our beautiful County.

Very sincerely,

Sumner Walters Jr., Ph.D.

Sumner Walters

TRANSPLAN COMMITTEE

Antioch - Brentwood - Pittsburg
and Contra Costa County

A MEMBER OF THE CONTRA COSTA TRANSPORTATION AUTHORITY

651 Pine Street, 4th Floor, North Wing, Martinez, CA 94553-0095

RECEIVED
DEVELOPMENT DEPT

December 12, 1996

Mr. James Cutler
Contra Costa County
Community Development Department
651 Pine Street
4th Floor, North Wing
Martinez, CA 94553-0095

**SUBJECT: COMMENTS ON DRAFT EIR FOR THE COWELL RANCH GENERAL
PLAN AMENDMENT, REZONING, AND RELATED ENTITLEMENTS**

Dear Mr. Cutler:

This letter is to acknowledge that the TRANSPLAN Committee has received a copy of the Draft Environmental Impact Report (DEIR) for the Cowell Ranch General Plan Amendment, Rezoning, and Related Entitlements.

The subject environmental document is intended to serve as a Master EIR for the eventual conversion of predominantly agricultural land to residential, commercial, and other land uses that would support a two phased master planned community, comprising the following elements: up to 5,226 single family and multi-family dwelling units; 698,267 square feet of commercial floor area; 1,158,696 square feet of business park floor area; school and community college sites, various public facilities, parks, and an 18 hole golf course; and, 3,008 acres of open space.

In my capacity as staff to the TRANSPLAN Committee, I have reviewed the DEIR and offer the following comments and questions with regard to the document:

1. **Existing Conditions Analysis: Table 17 (C. Transportation, page IV-C-12 - 22)**

- Table 17: Intersection Level of Service - Existing Conditions shows that only three intersections are now operating at lower than LOS "A". Apparently LOS for these intersections were calculated using the CCTA software and the LOS definition shown in Table 14, page IV-C-14, was taken from the TRB "Interim

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Materials on Highway Capacity, Circular 212". Are these comparable measurements? The traveling public may not agree that there are insignificant delays at Walnut Boulevard/Marsh Creek Rd. or Walnut Boulevard/Vasco Road/Camino Diablo. Perhaps a note of explanation would help.

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- Fairview Ave at Lone Tree Way is a key intersection, but it is not listed in Table 17: Intersection Level of Service Summary - Existing Conditions. It is recommended that this intersection be included in the DEIR traffic analysis.

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2. **Transportation Network Assumptions: State Route 4 Bypass (C. Transportation, pages IV.C-32-C-52)**

- The DEIR cites the East Contra Costa Transportation Strategic Plan (Working Paper #1) in reference to roadway improvements assumed to be in place by Year 2010 and 2026. Please note that the East Contra Costa Transportation Strategic Plan was adopted by the East Contra Costa Regional Fee and Financing Authority on May 9, 1996.

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- A key roadway improvement assumption noted in the DEIR is the extension of the State Route 4 Bypass south to Vasco Road. The document states that State Route 4 Bypass will "... provide essential access to the employment uses in the East Creekside and East Village subareas." Since 1.4 million square feet of business and commercial floor area is proposed for the Project's Phase I, it would seem that the County would need to condition development of employment uses in Phase I based on when the "essential regional access." in the form of the State Route 4 Bypass to Vasco Road, will be completed.

30.04

3. **Offsite Traffic and Circulation Impact (C. Transportation, pages IV.C-48 - IV.C-52; Tables 26, 27, and 28)**

- Although the DEIR does provide the locations or intersections with a potentially significant impact by project phase, it does not make a clear distinction between the truly "project" impacts versus "cumulative" impacts. It simply identifies the locations and intersections where deficient conditions occur under the "with project" scenario description. The analysis should isolate deficient conditions showing the "project" and "cumulative" impacts by Project Phase so that reviewers can get a clear picture as to the Project's proportionate share of traffic impacts.

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- Tables 26 and 27 (Highway and Rural Road Level of Service Summary) should include a column indicating the Contra Costa County's General Plan Growth Management Element traffic performance standard for the Basic Routes so that reviewers can discern what the project's impact is on adjacent Basic Routes.

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4. **Significant Unavoidable Impact: Offsite Traffic and Circulation (C. Transportation, page IV.C-53)**

- ▶ The DEIR clearly states that the Project will have significant unavoidable impacts on Vasco Road (Phases I and II) and State Route 4 Freeway between Railroad Avenue and State Route 4 Bypass (Phase II).
- ▶ These findings of significant unavoidable impacts to Vasco Road and State Route 4 Freeway would require the County to make a Statement of Overriding Consideration in order to approve both phases of this Project. The Statement of Overriding Consideration should be based on substantial evidence that shows approving the Project would outweigh the significant unavoidable impacts to Vasco Road and State Route 4 Freeway.

30.07

5. **Project Impacts on State Route 4 Freeway (C. Transportation, page IV.C-54)**

- ▶ The DEIR text states "... the project would increase traffic levels substantially on the unwidened sections of the freeway from Railroad Avenue to the State Route 4 Bypass, which is expected to be operating at LOS F." The text goes on further to recommend that "a mitigation for this impact would be to require that the planned future widening of this section of SR-4 to eight lanes be completed before Phase I of the project is completed."
- ▶ It is noted that, as described in Table 22: Key East County Roadway Improvement Assumptions, 2010 and 2026 (page IV.C-36), the EIR analysis assumed that the widening of SR-4 to eight lanes would be completed by 2026.
- ▶ As described in the text, the recommended mitigation measure for impacts to SR-4 Freeway is not consistent with the DEIR assumption that widening of SR-4 to eight lanes would be completed by 2026. This being the case, it would seem that the County would need to condition specific development within Phase I of the Project according to progress in completing the widening of SR-4 freeway between Railroad Avenue and the State Route 4 Bypass.

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6. **Specific Offsite Improvements to Reduce Project Impacts to a Less-Than-Significant Level (C. Transportation, Page IV.C-54-IV.C-56)**

- ▶ The DEIR recommends the following specific offsite improvements to reduce the project's impacts to a less-than-significant level:
 - *SR-4 Bypass, widening from Highway 160 to Laurel Road.* It is noted that the document does not identify the number of lanes or when to widen the SR 4 Bypass.
 - *I-580 Freeway, widen to provide an HOV lane east of Vasco Road (Ph.II)*

30.09

- *Byron Highway, widen to four lanes south of Camino Diablo (Ph. I and II).*
- *Camino Diablo, widen to four lanes between Vasco Road and Byron Hwy..*
- *Balfour Road, widen between Concord Avenue and State Route 4 Bypass.*
- *State Route 4 Bypass, extend four lane segment from Lone Tree Way to Marsh Creek Road (Phase I)*

- ▶ It is noted that none of these roadway widening projects listed above are presently in the Capital Improvement Programs (CIP) for the County or neighboring cities. How can these offsite improvements be relied upon as mitigation measures when there is no funding mechanism in place to pay for such improvements? In order to establish findings to certifying the DEIR, the County would need to condition the Project's specific development elements, as identified in Project's Phase I and II, based on having a funding mechanism in place to pay for these offsite improvements before the Project can proceed.

30.09

7. Mitigation Measure T-1 (C. Transportation, pages IV.C-53 - IV. C59)

- ▶ This mitigation measure would establish as a condition of approval for each specific residential or employment generating use within the Cowell Ranch Project compliance with a four-point performance standard intended to mitigate Project's impacts to less-than-significant level.
- ▶ Should the County decide to certify the DEIR and adopt such a mitigation measure, the applicant would be required to file an annual mitigation monitoring report to assure compliance with the performance-based transportation mitigation measures described in T-1. The annual mitigation monitoring report will become an important source of information for those concerned about the Project's impact on regional roadways. Therefore, the annual mitigation monitoring report should be made available to affected jurisdictions and agencies for review and comment prior to the County's approval or acceptance of the report's finding that the Project complies with the four-point performance standards.

30.10

8. Employment Development Program (C. Transportation, page IV.C-59; A. Land Use, page IV.A-59)

- ▶ Mitigation Measure LU-11 would condition the Project to submit an Employment Development Program which includes meeting on-site jobs per employed resident targets. Since the DEIR analysis assumes that over 20% of the trips generated in both phases of the Project will be internal to the project area, we concur that this mitigation measure is appropriate given the single ownership feature of the Project in order to assure a balanced ongoing rate of housing and job opportunities to reduce impacts on the regional roadway system.

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- ▶ Establishing the targets for on-site jobs/housing will be critical to assuring this balanced development program for the project. The proposed Employment Development Program should be circulated to affected jurisdictions and agencies prior to approval for review and comment. Furthermore, the Project's condition of approval should include a requirement that if in a review of EDP performance, the County finds that the EDP targets have not been reached, a moratorium would be imposed on residential development until the Project's imbalance of jobs and housing has been corrected.

30.11

9. **Mitigation of Impacts Due To Abandonment of Marsh Creek Road (C. Transportation, page IV.C-62)**

- ▶ Mitigation Measure T-3 requires the Project to dedicate adequate right-of-way for an ultimate four lane segment arterial along Camino Diablo to mitigate increase traffic diverted from the proposed road vacation of Marsh Creek Road. Has the County determined that the right-of-way dedication would sufficiently account for the project's fair share or proportionate cost of this necessary roadway widening? What happens if the right-of-way is provided but there are insufficient funds to construct this widening? In order to establishing findings for certifying the DEIR, it would seem appropriate that approval of the Project's Phase II be conditioned on having secured both the right-of-way and construction funding for the widening of Camino Diablo as a mitigation measure to the vacation of Marsh Creek Road.

30.12

10. **Provisions for Transit Service (C. Transportation, page IV.C-69; A. Land Use, page IV.A -63)**

- ▶ Mitigation Measures LU-12 and T-12 both require the Project to be served by a transit system. LU-12 requires the Project to "provide an internal transit system" and T-12 conditions approval of the project on "provision of a shuttle service to regional transit systems." The mitigation measures should also require that the Project establish a transit operator and funding mechanism to assure that the transit service provided as a mitigation measure can be sustained financially. The operator should be required to coordinate such service with existing public transit operators.
- ▶ The DEIR text states that if no transit provider can afford to serve this project site, the unmet transit demand would be a significant unavoidable impact. This would appear to require the County to make a Statement of Overriding Consideration in order to approve both phases of this Project. This Statement of Overriding Consideration should be based on substantial evidence that shows approving the Project would outweigh the unavoidable impact of an unmet transit demand that would result if the Project cannot meet the transit service provision mitigation measures.

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- ▶ It is noted that the existing Mococo branch line to Tracy (formerly Southern Pacific, now owned by Union Pacific) is proximate to the Project Area. Was the potential of serving the Project with rail transit service using conventional railroad lines, such as the Mococo line, ever considered as a transportation alternative for the Project?

30.15

11. **Development Agreement (Approvals, page III-44)**

- ▶ The applicant is seeking to enter into a Development Agreement with the County to guide development implementation of the proposed Project. The Development Agreement will be a critical document in terms of describing how the Project's conditions of approval will be implemented. The Development Agreement should provide the public and affected jurisdictions with assurances that the applicant will fulfill the necessary conditions of approval, particularly those related to the project's significant impacts on the East County transportation system as documented in the DEIR. Is it the County's intention that this DEIR will cover the Development Agreement? How will the County assure that the Development Agreement will incorporate the mitigation measures described in this DEIR and/or conditions of approval that are necessary for this Project? How will the County assure that, in the event the Project is annexed to another jurisdiction, any mitigation measures or conditions of approval covered under this Development Agreement can be honored by the jurisdiction which becomes a successor to the agreement?
- ▶ Since the proposed Development Agreement appears to be inextricably linked to the DEIR's findings, it should be circulated to affected jurisdictions and agencies for review and comment on implementation of the conditions of approval and DEIR's recommended mitigation measures prior to its approval.

30.16

12. **Provide Analysis of Project's Impacts on Maintaining Traffic Service Objectives in the East County Action Plan**

- ▶ It is also noted that the County's General Plan Growth Management Element established a policy that new development cannot be approved unless it can be demonstrated that infrastructure can be provided which meets the traffic levels of service and performance standards (see page 4-6, Policies 4-1 and 4-3, Growth Management Element, Contra Costa County General Plan, Jan. 1991). One of the performance standards identified in the County General Plan's Growth Management Element are the Traffic Service Objectives contained in the East County Action Plan subsequently adopted by the Contra Costa Transportation Authority when it adopted the Countywide Comprehensive Transportation Plan in July 1995.


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- ▶ It is further noted that the Notice of Preparation for this Project was issued on December 21, 1992. This means that the Project was initiated prior to adoption of the CCTA's Countywide Comprehensive Transportation Plan, which incorporated elements of the East County Action Plan and established a procedure to evaluate how a General Plan Amendment generating more than 100 additional peak hour trips would impact the Action Plan's Traffic Service Objectives.
- ▶ Although this Project was initiated prior to adoption of the Countywide Plan, which established the procedure for review of General Plan amendments, the County should require an analysis of the Project's impacts on maintaining the Traffic Service Objectives described in the East County Action Plan. Such an analysis would help the County to determine that approval of the Cowell Ranch General Plan Amendment would be consistent with the County's General Plan Growth Management Element standards.

30.17

Thank you for the opportunity to comment on the Cowell Ranch General Plan Amendment DEIR. Should you have any questions regarding these comments, please contact me at (510) 335-1242.

Sincerely yours,



Patrick Roche
TRANSPLAN STAFF

c: TRANSPLAN Committee
M. Engelmann, CCTA
PR/a:cowelllr

CONTRA COSTA

December 15, 1996

96 DEC 18 PM 3:57

COMMUNITY
DEVELOPMENT DEPT

Contra Costa Community Development Department
651 Pine St
North Wing, Fourth Floor
Martinez, CA 94553

Dear Department members:

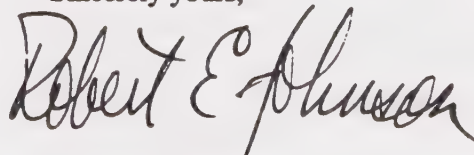
I am writing to urge that Contra Costa County say no to the Cowell Ranch proposal because of the huge negative impact it would have (as indicated in its own EIR) on the environment and quality of life for Contra Costa County and others in the Bay Area. It is time that Contra Costa County stand by its urban limit line instead of altering it every time a developer wants to build more sprawl. This particular development would destroy a large area of open space and valuable agricultural lands and would make it difficult for existing agricultural to continue due to the incompatibility with new uses. Habitat for endangered and threatened species including wetlands would also be lost. Despite plans for on-site jobs, traffic and congestion would inevitably increase due to the current isolation of the site from other Bay Area urban areas. Moreover, the EIR notes that there would be more residents than jobs available within the development anyway.

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What is truly amazing is that the nearby cities of Brentwood and Antioch already have a backlog of 15,000 units of housing that have been approved but not yet built. With the pipeline so full and the costs of extending infrastructure so high, it is ridiculous that Contra Costa County should approve yet more hopskotch sprawl—no matter how “honorable” the objectives of the developer. The end does not justify the means.

Thank you for your kind attention.

Sincerely yours,



Robert E. Johnson
580 Grizzly Peak
Berkeley CA 94708



Mr. Glen Deardorff
18250 Crest Ave
Castro Valley, CA 94546-2722

DEAR C.C. DEV. DEPT —

I URGE YOU TO SAY NO TO
THE PROPOSED COWELL RANCH. I COULD
LIST ALL THE REASONS BUT YOU'VE HEARD
THEM BEFORE.

32.01

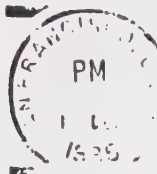
Sincerely

96 DEC 17 AM 9:14
CITY OF CASTRO VALLEY
DEVELOPMENT DEPT

12/17/96 12



Dan Dumont
256 5th Ave
San Francisco, CA
94118



BUCKLE UP



Contra Costa Community

12/19/96

Contra Costa Community Development
Department,

As a concerned citizen of the Bay
Area I urge you to say no to Cowell
Ranch.

Thank you,

DAN DUMONT
256 5th Ave
S.F. Ca 94118

CONTRA COSTA

96 DEC 23 PM 1:31

COMMUNITY
DEVELOPMENT DEPT

332



Berkeley Gray Panthers

Age and Youth in Action • 1325 Grant Street, Berkeley, CA 94703

Phone: (510) 527-3790 • Fax only: (510) 525-7973

December 20, 1996

Contra Costa County
Community Development Department
651 Pine Street, North Wing, Fourth Floor
Martinez, CA 94553

Subject: Cowell Ranch Development Draft EIR

96 DEC 26 AM 11:39
COMMUNITY DEVELOPMENT DEPT

Berkeley Gray Panthers opposes the above project. We share the concerns of Greenbelt Alliance and the Sierra Club, but are additionally concerned about the inadequacy of access for citizens who cannot, should not or choose not to drive private automobiles.

With all new development there has to be infrastructure — not the least of which is transportation. The impact of auto-oriented suburban sprawl development on minorities who can't afford cars is described in *Deliberate Disadvantage*, a report recently prepared by the Applied Research Center of Oakland for the Levi Strauss Foundation:

"Transportation patterns have changed dramatically in the Bay Area as housing development and job growth have moved from the urban core to urban fringes and suburbs. The existing transportation infrastructure has proved inadequate for both car owners and those reliant on public transit. During the last forty years, nearly two out of every three new jobs have been in the suburbs of metropolitan areas, and most are not accessible by public transportation. Despite growth in the number of people in the suburbs, the majority of people of color in the region (71%) remain concentrated in the central cities. Due to racial discrimination, high housing costs (rental and purchase), and the lack of affordable/low income housing units, people of color who might take advantage of the large number of entry-level positions in the suburbs are unable to move closer to these sources of employment. Therefore, access to transportation plays a key role in the ability of people of color to get and hold onto jobs outside the urban core. In the Bay Area, the transportation systems are not designed to meet the needs of transit-dependent 'reverse' commuters (from the urban core to suburban job markets)."

Title VI of the Civil Rights Act of 1964 provides that no person "shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." In Los Angeles Title VI was

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successfully used in a lawsuit brought by the NAACP Legal Defense and Education Fund and others charging the Los Angeles Metropolitan Transportation Authority with violating the civil rights of transit-dependent passengers — mostly inner-city racial minorities — by spending lavishly on new rail systems patronized by a small minority of largely affluent white suburbanites at the expense of the bus system. Now MTA bus fares will be frozen for two years, the monthly passes will be retained and reduced, and more than 152 buses will be added to the fleet under a consent decree approved by the federal judge in October, 1996. From this it does not require much analysis to realize that federally-funded transportation infrastructure of the Bay Area is in serious conflict with Title VI. Development of the sort proposed is highly inappropriate in such circumstances.

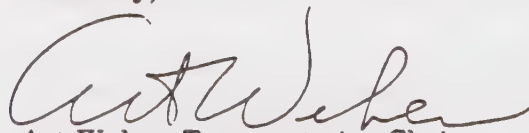
Court decisions that define driving a motor vehicle on a public road as a privilege, not a right, further strengthen our contention that development of the Cowell Ranch site as an exclusive enclave for motorists is discriminatory:

"Although the driving privilege is an important interest, it is not a fundamental right of the kind which demands heightened judicial scrutiny in the face of an equal protection claim." *Anacker v. Sillas* (1977) 135 Cal. Rptr. 537, 65 C.A. 3d 416.

"Suspension of a driver's license does not prevent an individual from traveling wherever and whenever he chooses, it merely limits his options as to his mode of transportation; thus, right of an individual to operate a private automobile cannot be equated with fundamental constitutional right of an individual to travel." (*McGee v. Sillas* [1978] 147 Cal. Rptr. 354, 82 C.A.3d 799)

Four years ago Berkeley Gray Panthers adopted a resolution "opposing any new development that is not at least as accessible and functional for non-motorists as it is for those who drive." We think it outrageous that any government agency might consider development at a site that is functionally accessible only by modes of transportation so dangerous that they require seat belts, air bags or crash helmets. Four times as many Americans have been killed in motor vehicle accidents as were killed in all our nation's wars from the Revolution through the present day. Development of the sort proposed for the Cowell Ranch site — with no adequate provision for public transit — is a primary reason for the fact that one-fourth to one-third of all California motorists are forced to drive without valid licenses or insurance.

Sincerely,


Art Weber, Transportation Chair
Berkeley Gray Panthers

34.01

96 DEC 27 AM 10:55
BENELCO HATT DEPPT

1101 Carey Dr. #23
Concord, CA 94520

December 22, 1996

To Contra Costa County Supervisors: Commentary on the Draft
Environmental Impact Report: Cowell Ranch Development

Every day we hear complaints of how traffic is worse, or the air is more polluted than before. For these reasons, as well as several others, it would seem ill-advised to encourage development of Cowell Ranch:

-the proposed project would both pave over 350 acres of prime agricultural land and also make it more difficult to protect the ongoing viability of neighboring farms. California is already losing its greatest birthright of fine soil at an alarming rate.

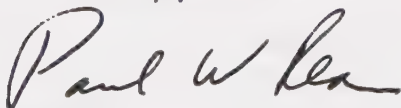
-potential habitat for wildlife would obviously be lost, including habitat for species already in trouble such as the tiger salamander, the San Joaquin fit fox, and the vernal-pool fairy shrimp.

-since Marsh Creek Road would be closed, existing cities would have to subsidize expensive road construction; this would in effect ask the present residents to pay for construction that would, because of the congestion and pollution it generates, degrade their own ways of life.

-the proposed project would destroy over a thousand acres of existing greenbelt and increase development pressures on the remaining open spaces in the county.

Thank you for your consideration.

Sincerely yours,



Paul W. Rea

35.01

GARY P. STERN
639 GLORIETTA BLVD.
LAFAYETTE, CA 94549
(510/283-3205 510/283-5703 fax)

December 27, 1996

Contra Costa Community Development Department
651 Pine Street, North Wing, 4th floor
Martinez, CA 94553

Gentlemen:

I have been a resident of Contra Costa County for thirty years. I built a home here and raised my children here. I work here. I am a business executive and certainly no radical opponent of progress. But I am desperately concerned about rampant development, particularly in the East County, and its impact on the quality of life, and ultimately property values, throughout the County.

I am writing in regard to the Draft EIR related to the proposed Cowell Ranch development project. I am sure there is a rigorous format and defined nomenclature for comments on EIRs. I apologize for not being fluent in such matters.

The draft EIR raises many issues of serious concern; some may be addressed by mitigation while others simply cannot be mitigated. I find some of the plan assumptions to be truly incredible and believe that the EIR does not sufficiently challenge these assumptions. The presumed correspondence between on-site employment and on-site residence falls into this category. The plan would have us believe that a substantial fraction of the people who find new employment in the development will also move their families to it. And having done so, they will move out if they later find better career opportunities in neighboring communities so that other non-commuters can take their place. There would certainly be a substantial impact upon traffic loads into and out of the development if this optimistic scenario proves to be in error. I will assume that others, far more articulate than I, will draw your attention to the array of issues and assumptions which the draft EIR has failed to critically consider.

Perhaps its mandate requires it, but the draft EIR seems to take a very local perspective when it deals with many of the issues. However, I am concerned with the impact of the proposed Cowell Ranch project, as one of many new developments, upon the quality of life in other parts of the County. For example, I think it is inappropriate for the EIR to omit analysis and comment regarding the impact of this project upon traffic on Kirker Pass Road and Ygnacio Valley Road, as well as traffic on highways 680 and 24. Moreover,

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LAFAYETTE

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this consideration ought to recognize the impact of projects already approved by planning bodies; i.e., it should assume that they are built out as contemplated.

36.02

In a similar vein, while the draft EIR attempts to address sewer, water and solid waste needs in terms of local impact and local solutions, there is only very limited acknowledgment of the impact of the implementation of those choices upon the options remaining to cities and unincorporated areas in the rest of the County as those communities struggle to deal with their needs for the future. Certainly those options will be reduced, even as a result of already approved development. I would think this a relevant concern for a County agency reviewing requested changes in zoning.

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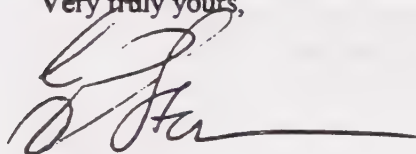
Finally, I am concerned about the precedent created by breaching a compact with the voters and residents of the County if the requested alteration of Urban Limit Lines is approved. The draft EIR does not adequately address the stimulative effect that such action might have in accelerating development efforts throughout the County, further eroding open space and undermining agriculture.

36.04

This is a huge project, and one that is substantial when compared to some of the existing cities in the County. It does not stand alone. It affects all parts of the County and should be viewed that way as well. I believe that Cowell Ranch, as currently proposed, will increase costs for all Contra Costa residents while also making it a less desirable place to live. As a byproduct, and in context with other development projects in the area, it may well reduce property values.

36.05

Very truly yours,



Gary P. Stern

2043 Berryman Street
Berkeley, CA 94709
December 30, 1996

Contra Costa County
Community Development Department
651 Pine Street
North Wing, Fourth Floor
Martinez, CA 94553

95 DEC 33 AM 10:44
COMMUNITY DEVELOPMENT DEPT

RECEIVED

Re: Cowell Ranch Development
Draft EIS/EIR

The Cowell Ranch Development would result in the destruction of valuable greenbelt space and increase development pressures on surrounding lands. In addition, the project would result in the destruction of wildlife habitat and wetlands. These negative effects cannot be properly mitigated. The Draft EIS/EIR and the project should therefore be rejected.

37.01

Sincerely,



David W. Halligan

Ronald A. Zampa
P.O. BOX 142
Crockett, CA 94525

012574-03472

96 DEC 31 AM 7:20

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DEVELOPMENT DEPT

Contra Costa Community
Development Department
651 Pine St.
North Wing ,Fourth Floor
Martinez, CA 94553

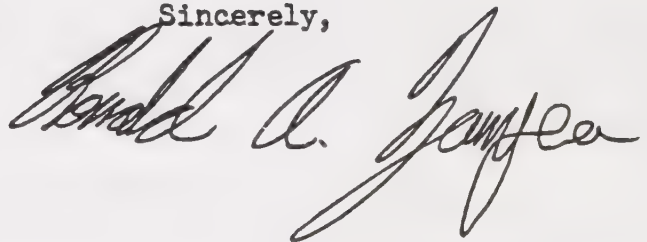
Dear Sirs;

As a lifelong resident of Contra Costa County, I urge you to
support our greenbelt. I urge you to support our Wetlands,
support San Joaquin Kit Fox habitat, And support our quality
of life .

38.01

I urge you to say NO to Cowell Ranch .

Sincerely,



671 Clipper Hill Road
Danville, CA 94526-2311

Tel: 510 820-0339
Fax: 510 820-0339

CONTRA COSTA

97 JAN 29 PM 3: 15

COMMUNITY
DEVELOPMENT DEPT

January 2, 1997

Mr. Jim Cutler
Contra Costa County Development Department
651 Pine Street
Martinez, CA 94553-0095

Re: Draft Environmental Impact Report - Cowell Ranch General Plan Amendment,
Rezoning and Related Entitlements - County File # RZ933014

Dear Mr. Cutler,

I appreciate the opportunity to review the Draft Environmental Impact Report (DEIR) and proposed General Plan Amendment, Rezoning and Related Entitlements for Cowell Ranch. My comments are provided under the following section headings:

- I. General Comments
- II. Agriculture
- III. Jobs/Housing Ratio
- IV. Transportation
- V. Air Quality
- VI. Project Alternatives
- VII. Reliance on Future Studies
- VIII. Financing
- IX. Growth-inducing and cumulative growth-inducing impacts of the project
- X. Other
- XI. Conclusion

I. General Comments

I am strongly opposed to the Cowell Ranch project as currently proposed. My reasons for strong opposition to the project include the following:

1. Unrestrained sprawl and leapfrog development at the edges of the Bay Area region, such as is proposed for the Cowell Ranch project, is generating profound environmental stress, intractable traffic congestion, a dearth of affordable housing, loss of irreplaceable open space, disinvestment in our inner cities, and lifestyles which burden working families and isolate singles and elderly. The Cowell Ranch proposal is an example of land use planning strategies that are 40 years old and no longer relevant or affordable in today's culture.

Fueling more sprawl development by subsidizing peripheral development with new freeway development is not sustainable and instead we must pursue alternative land forms oriented more to affordable neighborhoods in which transit, walking, biking, as well as driving are supported.

The Cowell Ranch project is in the wrong place because it is 30-70 miles from most Bay Area jobs. Our investment in transit must be backed up with land use patterns which put riders and jobs within easy reach. Our investment in affordable housing should place families in neighborhoods where they save dollars by using their auto less. Our investment in open space must reinforce greenbelts and urban limit lines. Our investment in highways must not support sprawl, inner city disinvestment, or random job decentralization. Our investment in innercities and urban businesses must be linked through transit to the larger region, not isolated by increased gridlock. Public investment in roads, transit, housing, civic facilities and open space must be tied to more efficient and sustainable patterns of community development. The Cowell Ranch project conflicts directly with all of these objectives.

What about the people that Cowell Ranch project leaves behind in the inner cities-the former American manufacturing might? These Americans are left behind by job flight, white flight, and dollar flight. Results? High unemployment. Low income. Substandard housing. Flattened tax base. Poor schools. No opportunity. No hope. Wrecked families. Drugs. Teens with fatherless babies. Violence. These are all, along with many other social and economic causes, consequences of land development policies which respond to artificially attractive opportunities in the outer suburbs-artificial because of subsidies in the form of

39.01

public highway investment and tax policy; artificial because of an "anything goes" regulatory context that allows the true cost of development to be delayed into the future.

In its Annual Report, Cowell Foundation states that "Cowell Foundation's overall objective continues to focus on the underlying causes of poverty and other social problems". . . and . . . "we are focusing on projects which can demonstrate positive result in helping people overcome their difficulties and move on to self-sufficiency". Why then is Cowell Foundation proposing a project that would exacerbates the problems of the poor? If the Cowell Foundation Board of Trustees are conflicted in their goals, why are they so unwilling to link arms with the citizenry of Contra Costa and the East Bay to try and find equitable solutions that benefit the community at large?

2. The Brentwood area Agricultural Core is the last major area of prime farmland left in Contra Costa. The Cowell Ranch project would have a significant harmful effect on the County's agricultural industry. The County Agricultural Industry is important not just for its provision of food and fiber but also because it provides balance between urban and rural and is an important element the quality of life that residents of the county want to preserve. The Cowell Foundation President says in the Annual Report "it has become obvious that there is a correlation between the world's rapidly growing population, patterns of consumption in developed countries and the degradation of the environment". As Cowell well knows, the diminishing food resources of the world coupled with burgeoning population is at the heart of all environmental problems. Another question and area of conflict surrounding Cowell Foundation is, why are they proposing a project that is damaging to our county agricultural resources and which would involve patterns of consumption that are exactly those it seeks to correct?

3. The purpose of the Cowell DEIR is to provide a realistic assessment of the environmental impact that the project might have. This allows citizens and public officials to properly evaluate the effect the project might have in the region and it allows for discussion of alternatives that might be less damaging and more sustainable in the long-term. To the outsider the DEIR reads as though someone is trying to stuff a huge stone (the project) into a small sock (the project site) and it doesn't work. The proportions and scale are out of whack.

The DEIR is built on many significant and erroneous assumptions, especially in the areas of traffic, jobs/housing ratio, air quality and agriculture. Because the DEIR

materially understates the impact the project would have on our environment and human health, the public and its elected officials cannot make proper judgment about the project's future impact (if it were approved).

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4. When the DEIR is corrected to reasonably and fairly reflect the impacts that would occur if the project were to go forward, it will easily be seen that this project has an impact that is way too severe and falls way short of being a sustainable Contra Costa development.

5. An objective for the County in authorizing this type of development is to provide significant revenues from the development. Unfortunately, because of the enormous costs of infrastructure associated with this project, the County will likely have costs that exceed revenues. It makes better fiscal sense for the county to pursue development opportunities closer in to its urban center, where infrastructure costs are lower in proportion to county revenues.

39.04

6. The question of financing for the project is not addressed. From discussion with other developers it has become clear that financing this kind of project, far away from the urban core, may be extremely difficult or unobtainable. Why is the county considering the Cowell project when financing will likely be impossible to obtain?

7. The major impediments to the Cowell Ranch are many. The DEIR lists 19 significant unavoidable impacts which constitutes sufficient grounds to reject the project. These 19 deficiencies will likely be greater in number if the DEIR is corrected to reflect accurate, complete and correct information. There are numerous non-compliances with the Contra County General Plan, Measure C, CEQA law and guidelines and the Principles and Guidelines for Cowell Ranch adopted by the Board of Supervisors on April 28, 1992. In several instances the project does not comply with the Board approved Conditions for a 21st Century Community. The DEIR itself sets out at Page V-1 Key Objectives for the Project yet materially fails to meet those objectives. For example, Principle No 1 reads "Cowell Ranch should be exemplary in its treatment of environmental issues". Principle 4 states "that Development of the Cowell Ranch should improve the quality of life for local residents". Principle 5 states that "the planning and development of Cowell Ranch should be internally consistent with the Goals and Policies of the County General Plan and Measure C the Urban Limit Line approved by the voters in 1990".

39.05

The Cowell Ranch DEIR and General Plan Amendment as currently proposed are inadequate and fall short of the standards that the citizenry of Contra Costa expect. Public officials cannot be expected to make a judgment on the project until these deficiencies are corrected. Even after the DEIR is corrected the project as currently proposed will have insurmountable problems and enormous impacts on the region. If there is to be a Cowell Ranch project it must be completely re-thought and reworked. Public money and public effort is being needlessly squandered and wasted. It would be more sensible (and fairer to Cowell Foundation) to tell them up-front that this project will not work. This will allow direction of public money to better use and focus Cowell towards a more realistic goal for their land investment.

39.05

II. Agriculture

1. The DEIR Page IV.B-7 states that the proposed project contains 1,112 acres of prime soils Class I and Class II, 26% of total acreage. If the project goes forward as described in the draft documents, these soils will be effectively lost to the type of agriculture that prime soils can produce, crops like cherries, apples, walnuts, strawberries, sweet corn, tomatoes and the like. At several places in the DEIR attempts are made to minimize the losses of agricultural land by telling the reader that the acreages lost are far less. The fact that the owner has not bothered to farm much of this prime land in the knowledge that it planned to develop it in the future does not detract from the fact that this land has prime agricultural soils and as such the land would be valued that way to a prospective buyer of that farmland. At page IV-B-21 Mitigation AG-1 mentions the fact that a redesign of the property could be made to mitigate this loss of agricultural land.

39.06

The impacts of the loss of farmland that incorporates 1,112 acres of prime Class I and Class II soils is understated and minimized in the DEIR. The DEIR should include as one alternative "a redesign of the project to avoid the significant impact of the loss of farmland". A complete statement is required to properly disclose the impact of the loss of agricultural resources.

2. The DEIR claims that the agricultural land that would be lost to development of the Cowell Ranch is 1% of Contra Costa cropland based on 1992 numbers. The DEIR further claims that only 2% of land designated for agricultural use in Contra Costa County would be lost to the Cowell Ranch development.

39.07

First, these numbers are based on old data; the correct numbers are higher and must be disclosed. Second, a more relevant statistic that should be disclosed is the percentage of land designated for agricultural use on the property expressed as a percentage of agricultural land in the in the East County region. This disclosure will serve to illustrate the importance of the agricultural land within the project in it's sub-regional context.

39.07

3. The DEIR provides an incomplete and inadequate analysis of the impacts of the project on the adjacent agricultural core of prime farmland, some 11,000 acres abutting the project to the north and east and which contains some of the state's finest farmland.. For example, the proposed project would consist of a new city that will be home to about 12,000 people and employ a further 6,000 people but their impacts on the Ag Core have not been properly evaluated.. The Route 4 Bypass will bring thousands of others through the project area and the Ag Core. Major services to the project such as sewer lines would come through the Ag Core. In Contra Costa County Agriculture is an \$80 million industry and employs about 4,000 people, and the most important center lies immediately adjacent to the Cowell Ranch project

The DEIR materially and significantly understates the impacts the project will have on the most important agricultural resource in the region. Considerable further analysis and description is required. At the December 3, 1996 conference in Sacramento sponsored by the Agricultural and Natural Resources Division of UC Davis, the conference discussed in detail many of the problems (and solutions) being experienced throughout California where urban land backs up onto farmland. Direct problems such as agricultural theft and vandalism, the spread of unwanted weeds and pests, problems of the use of pesticides close to urban areas, tractor dust and agricultural burning and slow moving farm vehicles that bother homeowners, pungent smells from farming practices, noise from farming activities while residents are asleep, and general restraints imposed on routine farm operations. Indirect problems include such things as air pollution from urban growth cutting crop yields and pressure on finite water resources. The DEIR needs to be expanded to properly discuss the problems and solutions in the areas of potential conflict between agricultural and urban uses.

39.08

4. Measure C was passed by the voters of Contra Costa County to establish a fixed urban limit line and to establish boundaries for the Agricultural Preserve (AG Core), an area classified as of great importance to the East County economy and the balance between urban and rural land uses. The proposed Cowell project proposes

39.09

to develop land from within the AG Core and develop prime farmland outside of the urban limit line.

The DEIR should be revised to confine the entire project to within the urban limit line and protect all land that is within the Agricultural Core. This would rectify non-compliance with the Contra Costa County General Plan and Measure C.

39.09

III. Jobs/Housing Ratio

The DEIR section IV.A makes a bold claim with respect to Jobs/Housing Ratio and claims that Phase I of the project will deliver by 2010, 1,868 residences and 5,485 jobs on 1.4 million square feet of business/commercial space. The DEIR claims that the project will "improve the balance in Brentwood's Jobs/Housing " market which it claims is a "potentially beneficial" impact. I have the following comments:

1. There is no indication in the DEIR as to what kind of jobs will be created. Housing types generally correlate to certain income levels. We do not know that the jobs to be created can match those income levels.

39.10

A revised DEIR should provide detailed analysis of the job types/income ranges that would provide for a match that will result in the creation of these 5,485 jobs by 2010, about 90% of which are predicted to be filled by local East County residents. Failure to supply this analysis will result in inadequate investigation of possible mitigation measures to traffic related project impacts.

2. There is no mechanism in the DEIR to ensure an ongoing proportional rate of housing and job creation within the project during construction and at build out and this fact is dismissed as "less than significant." While the DEIR does discuss an Employment Development Program and a Housing Development program, these programs are in no way enforceable and as such have little value. It is entirely possible that the project could build its homes but be unable to create the matching jobs. If this were to occur, the environmental impact on the project would be significantly greater.

39.11

A mechanism must be added to the DEIR whereby the homes are only built provided the jobs are created and it can be demonstrated that the residents of Cowell Ranch are in fact filling these jobs and not commuting out of the East County area. Similarly it must be demonstrated that the jobs created at Cowell

Ranch are not being filled by residents outside of East County. I would suggest that this objective could be achieved by using mechanisms similar to the Dougherty Valley Settlement Agreement of 1994. However, a multi-phase project (more than two phases) would be required to achieve this desired goal.

39.11

3. At Table 24 the prediction for 2010 is that 92% of the outward AM vehicle trips from the project will be to the local East County Area (within about 12 miles of Cowell Ranch). The Table shows only 8% of the vehicle trips to Central Contra Costa County or other parts of the Bay Area or to the Stockton/Tracy/Central Valley area. Business Parks in the Bay Area typically employ people from a wide geographical spread. People are employed where their jobs skills match a job, often further than 12 miles from home. Many families at Cowell would have two members of the family working which would further increase the likelihood that at least one working family member will obtain work out of the local area.

39.12

There is no tangible evidence in the DEIR that supports the claim that most Cowell Ranch residents will work in the East County region. In the absence of such evidence, the DEIR must be revised to incorporate projections that are comparable to other business parks in Contra Costa county. The East County Traffic model and other environmental impacts resulting from this revision must be rewritten.

4. The DEIR is self contradicting. The basic theme is that 5,485 jobs will be created between commencement of the project that will start in 1999 or later and completion of phase I by 2010. But, at Page IV.C-52 the DEIR says that delays in road building could cause delays in building employment centers at East Creekside and East Village and in particular that the Bypass won't be completed until 2006-2010. And the DEIR also says that "In the absence of excellent regional access to the project, the ability of the project proponent or any developer to attract significant job producing uses prior to 2006 would be very limited". If the Bypass is not completed until 2006 at the earliest, is it only logical to conclude that Cowell Ranch cannot realistically claim that it will attract 5,485 jobs by 2010?

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The DEIR needs to be revised to eliminate these contradictions and to provide for the more conservative and realistic possibility that for various reasons 5,485 jobs will not be created by the completion of Phase I in 2010. Further environmental analysis is required to correctly show the impacts of a more realistic jobs/housing ratio on traffic congestion, and the related impacts including but not limited to air pollution, energy, noise and emergency services provision.

5. The DEIR claims that the Jobs/Housing ratio will have a "potentially beneficial impact" on the project.

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There is nothing in the DEIR to substantiate a "beneficial impact". This statement should either be eliminated or explained in more detail in the DEIR.

6. The whole section in the DEIR that deals with Jobs/Housing balance is inadequate and based on unrealistic assumptions.

The revised DEIR should include a detailed discussion of the probable rate of delivery of local jobs in the East County region, the location of these jobs, the breakdown of existing and future jobs by wage level, discussion of how wage levels translate to housing product type and purchase prices and discussion of existing and future commute patterns-factoring in wage and housing costs.

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IV. Transportation

The transportation of people, goods and services associated with this potential project will have a major impact on the environment and the quality of life for people in this region.

1. The DEIR and the East County Travel Model substantially undercount the number of vehicle trips that will result from the Cowell Ranch project and underestimate the length and time of vehicle trips generated by the project. Although not a complete list, among the reasons for this are:

(a) Erroneous overstatement of the number of local jobs that will be created, erroneous understatement of the number of residents that will be employed out of the local area, and erroneous understatement of the number of residents outside of East County that will fill the jobs in the Cowell Ranch project.

The East County Traffic model needs to be revised to account for this fact.

(b) The traffic impacts of the Community College especially in early PM are not fully accounted for.

The East County Traffic model needs to be revised to account for this fact.

39.16

(c) Assumption of numerous new or improved roadways and intersections which are infeasible. Many of these road projects are infeasible because there is either little or no identifiable funding, and/or an unwillingness by one or more jurisdiction to make the improvement. The enormous costs are not disclosed, nor are the contemplated sources of funding. This information is probably absent because there are no cost estimates and there are no realistic sources of funding. One thing is clear. Significant Federal & State funding for these kinds of projects in East County in today's political and economic climate are not a realistic possibility.

The East County Traffic model needs to be revised to account for this fact.

(d) Inconsistencies between the East County Traffic model and the Contra Costa traffic model.

The East County Traffic model needs to be revised to account for this fact.

(e) The project will give rise to several arterial roads and intersections LOS F. Because you cannot fill a road beyond 100% capacity, the times for LOS F will be stretched out for several hours each morning and evening rush hour. The resultant adverse affects on the environment, agriculture, human health etc. has not been properly analyzed, evaluated and disclosed in the DEIR. There is incomplete analysis of traffic on the principal arterial roads leading out of the East County region (Hwy 4, Hwy 4 By-Pass, Vasco road etc) and the DEIR shows numerous instances where the volume of traffic exceeds the capacity of key roads and intersections. This, of course, is impossible since only one motor vehicle can occupy a car-length of roadway space at any given time. The mitigation measures provide a few potential solutions, some of which may never occur. One thing that will probably occur is that the peak hour will "stretch out". Another likely scenario is that all facilities parallel to these key roads and intersections will become congested with traffic that cannot fit on those arterial roads. This is where the DEIR is deficient. A significant portion of the arterial road overload should be assigned to parallel facilities better reflect what motorists will do when the arterial roads reach capacity.

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A peak hour arterial road analysis should be supplemented by quantification of where traffic overload will be diverted. Impacts and mitigation measures related to diversion of arterial road traffic overload should be included in the traffic analysis. It is technically inappropriate to provide tables showing an obviously

overloaded facility and not have any analysis of impacts and mitigation measures on parallel facilities.

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2. There are many references in the DEIR to Performance Standards. Because these performance standards are not enforceable and because they are based on an erroneous traffic model, claims of "less-than-significant impact" are invalid.

Performance Standards should be made enforceable. One way to achieve this is in the manner used by the Dougherty Valley Settlement Agreement. Under this type of agreement, development is allowed to proceed until Performance Standards are in default. If and when a default occurs, the developer is given an opportunity to correct it, but if they should fail to correct the default, issuance of building permits stops.

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3. The DEIR erroneously states that TDM's "could have little or no reduction of traffic impact". People forget that large sectors of our population cannot drive, including older people, young people and disabled. They are left isolated and lonely, deprived of a reasonable opportunity to be active or working residents. These people's needs could be accommodated and TDM's could have a significant impact if the project was designed properly.

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The project should be redesigned with a project alternative that meets the needs of this sizable sector of our population.. There are plenty of examples round the country of this type of urban design.

4. There are currently approximately 110,000 monthly car trips on Marsh Creek road through to central Contra Costa. With 160,000 new people, that can be expected to increase to about 300,000 car trips. When Marsh Creek road closes, those cars will have to be accommodated on other roads. The environmental impact of these diversions to other area roads is significant and is not fully disclosed.

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The environmental impacts of closing Marsh Creek road need to be fully analyzed and disclosed.

5. Ygnacio Valley Road and Kirker Pass have incorrectly been excluded from the traffic study.

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They should be included in the traffic study and analysis.

6. The DEIR sections on transportation and jobs/housing ratio raise a series of general questions. How can jobs reasonably be expected to come first when the impact fees needed to build the infrastructure necessary to attract jobs will be generated from the residential component? And, if the roads and intersection are clogged at LOS F as the projections indicate and the revised projections will further indicate, won't this reduce the attractiveness of this area for locating jobs and is this factored into the job assumptions that underlay the traffic model?

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The East County Traffic model and the whole transportation section is flawed because it is based on unrealistic and erroneous assumptions. This whole section needs to be rewritten to reflect more realistic traffic patterns. From these revised patterns of transportation we may then be able to make a realistic evaluation of impacts.

V. Air Quality

The proposed Cowell Ranch project is to be located adjacent to the Livermore and San Joaquin valleys, two of the most polluted regions in Northern California. Development related emissions will result in a significant worsening of air quality in the East County and neighboring valleys. The DEIR at page IVK-7/8 states that "the project will have more influence over air quality in the Sacramento and San Joaquin valleys than they do locally". This statement is indefensible in the light of current scientific knowledge. Why are cancer rates rising dramatically, especially in Contra Costa County? Thousands of young children with small lung capacity will be living close to and within the project.

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Substantial air pollution from the project will have an adverse effect on human health in the local area and be absorbed into the food chain at the neighboring Ag Core. The impact of air pollution on human health in East County is not dealt with adequately in the DEIR.

The DEIR emissions analysis (including table 64) relies upon the DEIR's traffic analysis to determine project emissions. For the reasons provided above (under transportation and jobs/housing ratio), that traffic analysis significantly underestimates the number of vehicular trips and relies on road and intersection improvements that are infeasible. Therefore the amount of traffic congestion and associated emissions that would result from the project is materially understated in the DEIR.

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The revised DEIR should re-analyze air quality impacts after the thoroughly re-analyzed traffic analysis is complete.

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VI. Project Alternatives

Other than the preferred project alternative, there is no other realistic proposal (except the "no project" alternative) that provides for a development that is wholly within the urban limit line established by measure C and which properly protects the farming interests of the Ag Core.

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Other realistic project alternatives should be provided in the DEIR that are wholly within the urban limit line and properly protect East County agriculture.

VII. Reliance on future studies

The DEIR improperly relies on future studies to mitigate environmental impacts below a level of significance without any evidence that such studies or plans will identify feasible mitigation measures. As a result of this reliance on future studies, the DEIR fails to analyze and include measures to mitigate the significant adverse impacts of the project. Here are just a couple of examples to illustrate the point:

1. Water. The DEIR does not identify a long-term supplier and source of water. It says at Page IV.F-10 that "the long-term water supply is dependent on Phase II East County Water Supply Management Study currently being prepared to recommend alternatives for providing cost effective and reliable water supplies". In this example the reader of the DEIR is unable to determine:

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- (1) The significant adverse environmental effects on the water resources of the region because the long-term supplier is unknown.
- (2) Impacts of potential diversion of additional sources of water.
- (3) Impacts resulting from the operation of the additional water supply facilities and infrastructure necessary to provide the water to the development

With good reason, Conditions for a 21st Century Community specifically states that new projects must "Ensure potable water supplies are sufficient in quality and quantity to provide for domestic consumption and fire protection."

The DEIR must identify a secure long-term purveyor of water and provide a detailed analysis of the impacts of providing this water. The recent ruling by a Contra Costa Superior Court judge in the EBMUD versus Contra Costa County and the Dougherty Valley developers should serve as a reminder of the consequences of approving an EIR without a secure source of water and identified supplier. If no long-term water supply is available, the project DEIR should be set aside until the source of water is certain.

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2. Sewer Service. At Page IV.F 41-42 the DEIR points out that "City of Brentwood cannot currently accept the wastewater that would be generated from the project" and that City of Brentwood is currently reviewing an interim solution involving expansion of the existing treatment plant. And later, in addressing long-term sewer service the DEIR states that the City of Brentwood "must implement a long-term solution by 2003". There is no assured supplier of sewer service and as such the same comments as for water applies here.

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The DEIR must identify a secure long-term supplier of waste water services and provide a detailed analysis of the impacts of providing this service. If no long-term waste water service provider can be assured at this time, the project DEIR should be set aside until the source is certain.

VIII. Financing

Conspicuously absent from the DEIR and other documents is information concerning the financing of the project. I have discussed this fact with other developers in the county and the overall conclusion is that it will likely be extremely difficult for developer(s) to obtain financing for the project given the many uncertainties that surround it. Throughout, the DEIR and other documents provide very little information as to cost.

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For example, the DEIR fails to provide reasonably accurate cost estimates of providing necessary public services and facilities or to identify the financing mechanisms to ensure that such needed services and facilities are provided in a timely fashion and paid for 100% by the developer. Contra Costa County has

historically allowed developers to develop projects without paying their full share of infrastructure costs. A primary goal of the Contra Costa General Plan is that new development should pay its share of costs associated with the development, so that existing communities will not be forced to bear these costs. This goal is embodied in General Goal 7-B and other areas of the General Plan. General Goal 7-B requires that before project approval, vital infrastructure and public services must be in place, funding mechanisms must be defined and available for the whole array of infrastructure, public services, and community services required by the project, including (but not limited to) libraries, police protection, water and sewer services, roadway improvements, recreational facilities, and all other project-related needs.

The DEIR must address in detail the question of infrastructure costs, financing mechanisms, and timing issues for the necessary infrastructure. It must be demonstrated that the financing will be forthcoming on a timely basis and that the developers will pay all the costs of infrastructure relevant to the Cowell Ranch project. For one example, documentation must be provided regarding the schedule or funding for applicable roadway improvements and mitigation measures, and impermissibly looking to other jurisdictions to implement expensive roadway improvements despite the fact that these improvements have been demonstrated to be infeasible. For a second example, documentation must be provided to show the provision of adequate funds for water and wastewater facilities.

39.27

XI. Growth-inducing and cumulative growth-inducing impacts of the project

The proposed project fails to adequately analyze the significant adverse environmental growth-inducing and cumulative growth-inducing impacts. Such impacts include:

1. The potential for increased growth in Contra Costa county, Livermore Valley and San Joaquin county caused by the impacts to the jobs/housing balance in the vicinity of the project.
2. Impacts to open space, agricultural lands, wildlife and other biological resources, water resources, and traffic, noise, visual, and air pollution impacts caused by growth.

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3. Impacts resulting from the precedent which will be set up by this proposed project of allowing future development in the County in violation of the requirements of CEQA, the County General Plan and Measure C.

4. Growth-inducing impacts caused by the provision of water, wastewater treatment services, and other infrastructure to the previously undeveloped Cowell Ranch area.

All growth-inducing and cumulative growth-inducing impacts must be adequately analyzed and disclosed in the DEIR.

39.28

X. Other

1. The residential golf course is located to the west and north of Marsh Creek reservoir and drains directly into it. The use of pesticides and chemicals by the golf course management program would drain directly into the lake.

There are grasses that can be used for golf courses that require much less quantities of watering and there are golf course management programs that use no chemicals or pesticides. The DEIR should include as mitigation that the golf course utilize these environmentally preferable practices for golf course construction and maintenance.

39.29

CONCLUSION

The Cowell Ranch DEIR is unacceptable and in need of significant revision. I believe that the project cannot be properly mitigated and that the current proposal has insurmountable problems and unacceptable material impacts that cannot be solved. The best route for Cowell Foundation will be to withdraw DEIR and look for a more sustainable plan to realize its land investment.

Sincerely,

John F. Hewett Chapman

John F. Hewett Chapman

BCC

January 2, 1996

BRENTWOOD COUNTRY CLUB
A Planned Community

*Blackhawk - Nunn Active Adult
Communities of Brentwood, L.P.*

CONTRA COSTA COMMUNITY DEVELOPMENT DEPT.
651 Pine Street - North Wing - Fourth Floor
Martinez, CA 94553

RECEIVED
JAN 10 1996
BRENTWOOD COUNTRY CLUB
CITY PARTNERS, L.P.

**RE: Comment regarding the Draft EIR, Cowell Ranch Project General Plan
Amendment and Related Actions; County File #1-92-CO; SCH #93013024**

Dear Mr. Cutler:

This letter comments on the following aspects of the Cowell Ranch Project DEIR.

General Plan Amendment (GPA) 94-2. The DEIR traffic analysis does not reflect the roadway network established by Brentwood General Plan Amendment (GPA) 94-2, adopted by the Brentwood City Council October 22, 1996. This GPA modified the alignments and interconnection of Payne, Fairview and Concord Avenues and changed the boundaries of Special Planning Area (SPA) I and SPA K. These changes to street alignments and SPA boundaries should be reflected in the traffic and other sections of the DEIR.

40.01

Congested Portion of Balfour Road & Alternative Mitigation. DEIR Impact T-2 does not clearly state which portions of Balfour Road will be congested, other than the Balfour Road segment between the Bypass and Concord Avenue. The DEIR quantifies the magnitude of the Impact T-2 Balfour Road congestion only by a single reference to v/c ratios of 0.82 and 1.05 on the segment of Balfour Road between the Bypass and Concord Avenue. If this is the extent of impact upon Balfour Road, adequate mitigation may consist of simply adding a travel lane to the relatively short affected segment of Balfour Road. Mitigation T-2 fails to consider such a solution and instead proposes the preservation of the opportunity for a "...second grade-separated crossing of the State Route 4 Bypass between its intersections at Balfour Road and Marsh Creek Road." The DEIR should evaluate mitigation measures which are alternatives to the second grade-separated crossing.

40.02

Location of the Potentially Congested Crossing. Impact T-2 does not clarify the location of the "potentially" congested Bypass crossing. Impact T-2 states that future development will contribute to cumulative traffic congestion "...potentially at the route's proposed grade-separated crossing of the State Route 4 Bypass connecting the area within the Brentwood City limits with the North Hills subarea of the project ("M" street)." The words "the route's" seem to indicate the congested crossing is the future Balfour Road interchange, while the words "North Hills" and "M Street" seem to indicate another location, at the Fairview Avenue/M Street grade-separated crossing of the Bypass shown in DEIR Figure 35.

40.03

Location of the Proposed Second Crossing. Mitigation T-2 does not clearly state the location of the proposed second grade-separated crossing. By its reference to a connection of "SPA I and the North Village", Mitigation T-2 implies the second crossing may be the Fairview Avenue/M Street crossing shown on DEIR Figure 35, but this crossing cannot be a "second" crossing if it is also the "potentially" congested crossing described in Impact T-2.

40.04

Quantification of Impact/Nexus for Mitigation. If Mitigation T-2 is intended to propose a grade-separated crossing of the Bypass in addition to the M Street/Fairview Avenue crossing, then the DEIR must clearly quantify the magnitude of the traffic impact which warrants the mitigation. The referenced impact upon a short segment of Balfour Road, together with the unsubstantiated conclusion of "potential congestion" and the vague reference on Page IV.C-60 to a "...general and qualitative assessment of cumulative traffic..." do not describe an acceptable nexus for requiring an improvement as substantial as a grade-separated crossing of a freeway.

40.05

Limitations to Locating a Second Crossing. In selecting the location of any such additional crossing, the DEIR must recognize that, wherever Brentwood Country Club adjoins the State Route 4 Bypass, any crossing other than the Fairview Avenue/M Street grade-separated crossing shown on DEIR Figure 35 will conflict with the Brentwood General Plan and will cause substantial damage to the Brentwood Country Club development plan.

40.06

Deletion of SPA I from Impact and Mitigation T-2. The DEIR should find that the traffic from the approximately 250 dwellings of SPA I to be an insignificant percentage of the total traffic generated by the thousands of dwellings plus additional commercial land uses of SPA's G, H, J and the Cowell Ranch Project. Consequently the DEIR should omit all references to SPA I from Impact and Mitigation T-2.

40.07

Thank you for the opportunity to comment.

Sincerely,


Roy P. Clark

V. P. Development Operations

cc: Stephen P. Beinke
Ron Nunn
Sandy Skaggs
Dwight Winther

4801 Shavano Peak Court
Antioch, CA 94509

January 3, 1997

97 JAN -8 PM 3:44

Community Development Department
Contra Costa County
651 Pine St.
North Wing-Fourth Floor
Martinez, CA 94553

RECEIVED

RE: Cowell Ranch Development

Dear Sirs:

We have reviewed the draft Environmental Impact Report for Cowell Ranch and have these written comments in response.

Although the draft EIR states an objective to provide 6,600 on-site jobs, there is no binding requirement that the jobs be evidenced before the homes are built. Please explain why Cowell Ranch will be able to attract such jobs when Brentwood, Pittsburg, and Antioch, after years of effort, have largely failed.

41.01

We are very concerned that the cumulative impact of traffic from Cowell Ranch and other new development in Antioch, Pittsburg, Bay Point, Brentwood, Oakley, and Clayton be adequately considered and mitigated for. The site lacks public transit; all off-site traffic will require automobiles. Many of these Cowell Ranch residents will be using Vasco Road as a commute route. The new Delta Expressway will dump additional traffic onto Vasco Road and Highway 4, including traffic to and from Cowell Ranch. Vasco Road during commute hours is almost at capacity now; Highway 4 is over capacity. I would like to point out that when the Contra Costa Waster District (CCWD) sought partnerships to expand the new Vasco Road from 2 lanes to 4, the County was unable to fund such a partnership. How does the County propose to mitigate the impact on Highway 4, Vasco Road, Deer Valley Road, Lone Tree, and Marsh Creek Roads? Although the draft EIR proposes the closure of Marsh Creek, this would inconvenience current residents. Please explain how the County evaluates the impact of the Cowell Ranch on the lives of existing residents in the area of traffic and quality of life.

41.02

The draft EIR does not adequately address the issue of water reliability. As you know, customers within the service area of the CCWD was required to ration water as much as 25% during the 1991-1993 drought. Since then, we have had thousands of new residents move into the County. Now Cowell Ranch proposes to add an additional 13,000 residents. From my review of the *Future Water Supply Study* recently published by the CCWD, it does not appear that CCWD has included a water supply for Cowell Ranch in its planning. A representative of the Cowell Foundation pointed out the proximity of the development to Los Vaqueros Reservoir. However, that reservoir, which has been paid for by existing residents, is intended to improve water quality, not provide a water supply for new development. Where will Cowell Ranch get its water supply and how will that supply be paid for? If CCWD is a supplier of the water, please analyze the impact on existing residents under drought conditions and explain the mitigation to be required.

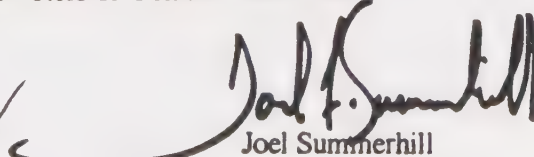
41.03

Finally, we strongly object to any changes in the urban limit line. We believe that such a change should be voted on by the voters of Contra Costa County.

41.04

Sincerely yours,


Gloria Cannon


Joel Summerhill

2372 Walnut Boulevard
Walnut Creek, CA 94596
January 3, 1997

97 JAN -9 AM 10:
RECEIVED

Contra Costa County Development Department
651 Pine Street, North Wing-Fourth Floor
Martinez, CA 94553

To Whom it may concern;

Attached herein is my analysis of the traffic-related problems and shortcomings found in the Draft Environmental Impact Report circulated for the proposed "Cowell Ranch Project" in the east County.

As enumerated on my report's first page, I believe my qualifications allow consideration of my study, and acceptance of the various findings. Although there are additional parts of the EIR I also feel need changes and reevaluation, this letter only covers those areas in which I have certifiable expertise.

My conclusion, after extensive review of the DEIR, is that this development proposal is poorly conceived, without due consideration of affected jurisdiction regulations, has inherent circulation faults within and outside the project, does not adequately address air quality and noise degradation, and is designed using impossible forecasts of the future which have no qualifiable basis.

42.01

It is my recommendation the project be rejected as proposed.

If I may be of assistance, or contribute additional information, please let me know. Public input during hearings of this type is indispensable and most necessary.

Sincerely,

William R. Cottrell

William R. Cottrell

Phone (home): 935-5315

DRAFT ENVIRONMENTAL REPORT-COWELL RANCH GENERAL PLAN AMENDMENT
REZONING AND RELATED ENTITLEMENTS;COUNTY FILE # 1-92-CO;REZONING #RZ 933014

ANALYSIS BY WILLIAM R. COTTRELL

Qualifications:Chairman,TPAC (Citizens' Advisory Committee),
Contra Costa Transportation Authority.
Chairman,TPAC Subcommittee for Compliance Checklist
Review,Contra Costa Transportation Authority.
Organizing member,Citizens for A Better Walnut Creek
Environmental and City Government action group.

* * * * *
TRAFFIC RELATED IMPACTS AND MITIGATION

Item: LU-6: The Project would alter existing character south of Brentwood by introducing urban development,roadways and project-related traffic and noise. There is no possible mitigation for these situations with Project construction.

42.02

LU-11: Project includes no effective requirements to foster a balanced rate of housing and job-opportunities development within the Project. In addition,the total number of employed residents at buildout of both phases would substantially exceed the number of onsite jobs. These factors indicate a large number of Project residents will commute elsewhere to work-this is inconsistent with County and Brentwood general plan policies which call for a balance of new housing and job opportunities. A study has also shown that in the majority of two-earner families,only one wage-earner works near home,while the other commanly commutes to a further distant workplace,which has not been addressed.

42.03

LU-12: It is stated here that approximately 56% of Project housing would not be within convenient walking distance of commercial,job,and transit centers. This obviously is conducive to more than half the residents using autos for travel within the project.

42.04

LU-16: In several locations,proposed residential areas are located adjacent to major roadways,such as Marsh Creek Road,Camino Diablo,and Vasco Road. Many residential areas would be adjacent to new internal arterials and collector streets. This creates potential visual,noise,air quality,and safety problems. (Specific discussions follow).

42.05

T-1: The Project would cause Level-of-Service Standards to be exceeded at numerous offsite roadway links and intersections with both phases.

Mitigation for SR 4,page IV.C-54,states that planned future widening to 8 lanes (of the section-Bailey Road-Railroad Avenue-SR 4 Bypass),is assumed to have been accomplished prior to Project Phase I completion. At this time,adequate funding for this widening is not assured. Additionally,with the Phase II construction,excessive traffic forecast for this road will have an "unavoidable significant adverse impact"on the road,already operating at LOS"F".

42.06

It is also stated that Vasco Road is expected to operate at LOS "F" with or without the Project,and widening the road is considered infeasible in Alameda County. The Project as proposed therefore has an "unavoidable adverse effect" on Vasco Road.

42.07

TDM measures cannot be used for any mitigation due to current State Law prohibiting mandatory requirements of employers or organizations.

42.08

It is disturbing to note in this EIR text the following:
"If, for a particular roadway system level of service impact, it is determined by the County (or City) that compliance with the applicable performance standard is infeasible, but the resulting adverse level of service impact is considered acceptable because the benefits of the project outweigh the impact, Section 15093 of the CEQA Guidelines permits the County (or City) to allow the impact.....

42.09

This "elastic clause" could perceivably allow politically or economically motivated interests to permit otherwise improper projects to be built. This potentially undesirable situation must be guarded against for the Cowell Ranch.

T-3: Marsh Creek Road, south of the North Village would be abandoned in Phase II. Travelers from within or outside the Project would have to divert to less convenient and more circuitous routes, creating even greater traffic on other roads and increased air-quality degradation.

42.10

T-6: There are safety impacts due to inadequate pedestrian access to school sites. The circulation plan also does not specify provisions for traffic routing, street widening, or off-street zones for drop-off or pick-up of students.

42.11

T-7: The 1400 foot long southwestern cul-de-sac in Planning Area 32 must be shortened to a permitted maximum of 600 feet to allow adequate emergency vehicle and trash collection access in this area.

42.12

T-8: The only access to the community college in planning Area 37 would be through the Area 38 business park, an awkward and unsafe access for emergency vehicles, a "potentially significant safety impact". Notably, the "Mitigated Alternative"(C), would provide a separate access road for the college, thereby correcting this condition.

42.13

T-9: Several Y-shaped intersections in the North and East Villages would create potential traffic and safety complications. The Project plan should be reworked to delete this type intersection wherever possible.

42.14

T-10: The Project as submitted does not meet: County or City of Brentwood Standards for "local non-urban street" width; the Brentwood Standards for "local urban street" width, "non-urban collector street" width, or "arterial right-of-way" width; and the County Standard for "arterial street" width.

The disregard in the original planning for the Project for known requirements of the affected jurisdictions seems to indicate lack of concern toward following essential guidelines for development. Such indifferent conviction, if intentional, is adequate reason to deny the Project.

42.15

A revised plan must be submitted, with all streets complying with these Standards, before further considerations are made. Such major changes will undoubtedly require considerable alterations in lot sizes and placement.

T-11: The circulation plan is unclear where bicycle facilities would be provided and how they would connect. There are possible conflicts on joint pedestrian/bicycle paths. These conditions have "potentially significant impact". The suggested mitigation requires the developer to submit complete plans to the County for review. I would recommend close coordination with the East Bay Bicycling Coalition, (member of TPAC), for advisement in proper planning.

42.16

T-12: Adequate transit service to the Project is not assured, due to lack of positive language requiring necessary contracts with service providers.

42.17

If no transit service can afford to serve the site, the demand for public transportation will be unmet, and increased traffic congestion would be a "significant impact".

PF-12: Fire protection and emergency medical responses would be compromised unless the described mitigation roadway minimums are included in the Project plan. (Refer to: T-7, T-8, T-9, T-10).

PF-23: Proposed schools would require planning and implementation of a feasible bus service for elementary and middle school students. Lack of such positive requirements would seriously impact traffic within the Project.

V-3: The County-designated "Scenic Route" status of Deer Valley Road, Camino Diablo/Marsh Creek Road, Walnut Boulevard/Vasco Road Corridor, and Marsh Creek Road would be negatively impacted by visible housing, substantially altering the area character and views. "Mitigated Alternative" (C) suggests some major changes in placement of housing away from higher sites, which would reduce the visual and traffic noise impacts. However, if the Alternative were to be followed, the suggested placement of large numbers of housing units in other new areas should require a new EIR for that change.

AQ-2: Emissions from Project-generated traffic will cause Regional levels of reactive organic gases, oxides of nitrogen, and PM-10 to exceed BAAQMD thresholds, regardless of included or proposed mitigations. This appears to be a disqualifying impact of this Project.

N-1: The Project as proposed at buildout would cause excessive traffic noise levels for residential areas along the SR4 Bypass, Walnut Boulevard, Camino Diablo, along Cowell Parkway, and at the community college. The mitigation as written suggests only non-specific and unclear mitigation measures, yet to be determined.

N-13: Project traffic would contribute to cumulative increases in traffic noise along Concord Avenue, Camino Diablo, and Walnut Boulevard. There is no feasible mitigation for existing residents in these areas.

* Discussions From Part IV *

Rapid urbanization and heavy pass-through traffic on SR4 are creating congestion problems in the East County. Vasco Road, a rural highway, although recently relocated and improved, can be expected to have significant capacity deficiencies.

The capital outlays for current transportation improvements in eastern Contra Costa County are substantial, and funding for even these current needs is uncertain. In particular, although some communities have adopted mitigation fees to partially fund widening of SR4, the SR4 Bypass, and the Buchanan Road Bypass, sources for the balance of necessary financing have not been determined. Subregional roadway funding-need sources are also unclear.

Although the agencies and companies providing information and forecasts for this EIR undoubtedly did the best possible with current knowledge, it is totally impossible to create accurate forecasts of the conditions 30 years from now upon which this Environmental Report relies. Even many projections by ABAG made in 1990 have proven to be quite inaccurate only 6 years later. To place faith in these prophecies and allow this Project is indeed naive.

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REGIONAL PARKS

EAST BAY REGIONAL PARK DISTRICT

1-9 4:10:55

January 3, 1997

Mr. James Cutler
Contra Costa County
Community Development Department
651 Pine Street
Martinez, CA 94553-0095

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Subject: **Comments on Draft Environmental Impact Report for Cowell Ranch Project**
County Files #1-92-CO, SCH #93013024

Dear Jim:

Thank you for providing the East Bay Regional Park District ("District") with a copy of the *Draft Environmental Impact Report for Cowell Ranch Project General Plan Amendment and Related Actions*. We have reviewed the Draft EIR and herewith provide written comments to supplement oral comments provided at the County Zoning Administrator's Hearing on November 18, 1996.

As you are aware, the District has had an interest in the proposed Cowell Ranch Development for several years. On February 3, 1993, we provided written comments on the Initial Study/Notice of Preparation for the Draft EIR. This attached letter is hereby incorporated by reference into our comments on the Draft EIR. In our 1993 letter, we raised concerns regarding public open space design and management, Marsh Creek Trail (Round Valley to Big Break) connections and potential project impacts to San Joaquin kit fox. These issues are all still of concern to the District, however, several changes have occurred at District facilities in eastern Contra Costa County since 1993 when the NOP was circulated. These changes are outlined below:

- The Los Vaqueros Project was approved, requiring the relocation of Vasco Road and the dedication of lands within the watershed to mitigate for project impacts, including the endangered San Joaquin kit fox. The Contra Costa Water District (CCWD) and the District have established the Vasco Caves Regional Preserve to protect its sensitive cultural and natural resources. The CCWD and the District are currently working together to establish resource management plans for the Los Vaqueros Watershed and Vasco Caves Regional Preserve. Both of these plans will focus on protecting and managing the sensitive cultural and natural resources in these areas, including San Joaquin kit fox and threatened California red-legged frog. The Los Vaqueros watershed, which abuts the southern edge of Cowell Ranch is the largest and newest development and open space habitat in the District. *The EIR and Habitat Management Plan for Cowell Ranch needs to address potential impacts to and compatibility with the resource management*

43.01

goals for the Los Vaqueros Watershed (which includes Vasco Caves Regional Preserve).

43.01

- On October 15, 1996, the District Board of Directors approved the Land Evaluation for Interim Use (LEIU) for Round Valley Regional Preserve. This document identifies the actions required to protect park resources and to provide safe public access. This park will be one of the primary open space parks serving eastern Contra Costa County. Although access by car to the planned staging area will be the primary public access, trail access to Marsh Creek and Black Diamond Mines Regional Preserve are also important features.

Round Valley currently remains closed to the public until a 10-acre staging area/park entrance is constructed on lands leased from the Cowell Foundation on the south side of Marsh Creek Road. This entrance will be immediately across Marsh Creek Road from the proposed Cowell Ranch development and will be affected by project generated traffic. In providing public access to Round Valley, the U.S. Fish and Wildlife Service required the District to implement special protective measures for San Joaquin kit fox and California red-legged frogs. The measures include a prohibition of dogs to protect kit foxes which are known to have dens and raise pups in Round Valley. The District will also be constructing new breeding habitat for the red-legged frog. *The EIR and Habitat Management Plan for Cowell Ranch needs to address potential impacts to and compatibility with the resource management goals for the Round Valley Regional Preserve.*

43.02

- The Marsh Creek Trail (Big Break to Round Valley) was initially proposed in the District's 1989 Master Plan. The first six miles of this trail from Big Break to the City of Brentwood have since been constructed. This trail provides an important connection between Oakley and Brentwood. Future connection with the Delta/DeAnza Trail will provide a new connection between Brentwood and Antioch. The remaining sections of the trail between Brentwood and Round Valley have not yet been specifically delineated. Several approved and proposed developments between Round Valley and Brentwood, including Cowell Ranch, will affect Marsh Creek and the potential alignments for completion of this trail. *The EIR for Cowell Ranch should not only address how this project will provide for the construction of the Marsh Creek Trail from the Round Valley staging area to the northern limit of Cowell Ranch, it should also provide a trail along those portions of Marsh Creek north of Cowell Ranch where flood control improvements are required as mitigation for project related down stream flooding impacts. Trail improvements will also need to be coordinated with the development of Highway 4.*

43.03

- On December 17, 1996, the District adopted a new *Master Plan*. "The Master Plan defines the vision and the mission of the East Bay Regional Park District and sets priorities

44.04

for the next ten years." This plan "...provides policies and guidelines for achieving the highest standards of service in resource conservation, management, interpretation, public access and recreation." The plan sets forth several goal statements that are directly relevant to the District's interest in the Cowell Ranch Project:

1. "Acquire and preserve significant biologic, geologic, scenic, and historic resources within Alameda and Contra Costa Counties." *The Master Plan identifies Cowell Ranch as a potential regional park.*
2. "Manage, maintain and restore the parklands so that they retain important scenic, natural and cultural values." *The Cowell Ranch Project has the potential to affect these parklands values.*
3. "Provide recreational development that fosters appropriate use of parklands while preserving their remoteness and intrinsic value." *The Cowell Ranch Project has the potential to affect these parkland values.*
4. "Participate in partnerships with public agencies, nonprofit organizations, volunteers, and the private sector to achieve mutual goals." *The Draft EIR identifies several mitigation measures that are compatible with District goals.*
5. "Provide leadership to help guide land use decisions of East Bay governments that relate to the District." *The District plans to continue to work closely with Contra Costa County, City of Brentwood and Cowell Foundation to help guide land use decisions on this project.*

43.04

- The 1996 District Master Plan also provides for a new trail to be constructed between Round Valley and Black Diamond Mines Regional Preserve. The trail would probably be constructed through portions of the proposed Cowell Ranch Open Space. *The EIR should discuss this proposed trail and evaluate its compatibility with the proposed development and open space...*

43.05

The proceeding discussion establishes the frame work for District comments on the Draft EIR. The remaining discussion in this letter provides the Districts specific comments on the adequacy of the Draft EIR.

Figure 1 - Please show Marsh Creek Road and Morgan Territory Road on this figure. These are important regional connector roads that may be adversely affected by this project.

43.06

Figure 2 - Please show Morgan Territory Road on this figure. This is an important regional

43.07

connector road that may be adversely affected by this project.

Page IV.—19, (d) 1st paragraph - Please provide a discussion of Vasco Caves Regional Preserve in this section. Although not currently open to the public, this preserve may be affected by this project.

Page IV.—19, (d) 2nd paragraph, last sentence - The statement that “no trail construction has occurred” on the Round Valley to Big Break Trail (Marsh Creek Trail) is incorrect. Approximately six miles of this trail has been constructed between Big Break and the City of Brentwood. The District is currently planning for the remaining unconstructed portions of this trail.

Page IV.A—48, “Impacts Related to Round Valley Regional Park” - The District does not concur with the conclusion that development of the Cowell Ranch would have a “less-than-significant land use impact” to Round Valley Regional Park. We believe that the Cowell Ranch Development will significantly impact Round Valley in the following ways:

- Contrary to the traffic analysis assumptions, we believe that this project will result in substantially increased traffic volumes on Marsh Creek Road. This argument is supported by more recent traffic counts performed by the County which show higher traffic volumes than were used in the EIR traffic analysis. This increased traffic will make it more difficult for park users to safely access the Round Valley staging area. In particular, we believe that park users may not be able to safely make a left turn from west-bound Marsh Creek Road into Round Valley during AM and PM peak traffic periods. Left turns from southbound Deer Valley Road to east bound Marsh Creek Road may also be unsafe during these time periods. This concern should also be addressed in Section IV.C.
- We believe that the Cowell Ranch development will have an impact on the District’s ability to protect and manage for the endangered San Joaquin kit fox on District lands. The District and CCWD are cooperatively managing lands in the Los Vaqueros Watershed and Vasco Caves, and the District is managing Black Diamond Mines, Morgan Territory and Round Valley Regional Preserves to protect kit fox. These areas are part of the northern migratory range of the species. The Cowell Ranch is situated in the middle of this corridor and provides a major connection between District lands currently being managed for kit fox. The construction of residential housing, commercial facilities, golf courses, roadways and other development infrastructure at Cowell Ranch may create a barrier for kit fox that migrate between Black Diamond Mines and Round Valley. The maintenance of the migration corridor in this area is critical to the survival of kit fox in its northern range. Increasing degradation, fragmentation, and isolation of kit fox habitat by development may reduce adjacent populations below the minimal level necessary to

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sustain the species, potentially resulting in local extinctions. This concern should also be addressed on page IV.V--61.

43.12

- As described at the beginning of this letter, the EIR does not address the District's management of Round Valley to protect the San Joaquin kit fox and California red-legged frog. We believe that the development of 5,226 homes, with more than 13,000 residents, will result in a substantial, new demand for active recreational facilities, including parks and trails, in this area. The proposed development at Cowell Ranch would provide for some of this demand, however we are concerned that given the amount of approved and proposed development in this area, these recreational facilities will be inadequate to provide for new residents. Currently, the District manages four "preserves" in the area (Vasco Caves, Morgan Territory, Round Valley and Black Diamond Mines) for passive recreation, but only has one "park" (Contra Loma) specifically dedicated for active recreation. Active recreational facilities have not been developed at the preserves because of environmental constraints imposed by regulatory agencies to protect habitat for special-status species. Round Valley contains several special-status species, including kit fox and red-legged frog, that would be adversely affected by substantially increased demand for active recreation. The District has imposed a prohibition on dogs at Round Valley to protect kit fox; the proposed open space at Cowell Ranch would allow for dog usage. Conflicting management goals (such as dog usage) between Cowell Ranch and Round Valley have the potential for significant impacts on the sensitive resources contained therein, and may pose other resource management and public policy conflicts. This concern should also be addressed on pages IV.F--61 and IV.F--69.

43.13

Page IV.C--4, (2) Vasco Road, and (4) Marsh Creek Road - Traffic volumes provided by Steve Kersevan of Contra Costa County Public Works to the District in April of 1996 show that the ADT volume for Vasco Road is 13,494 and for Marsh Creek Road the ADT volume is 5,271. The EIR shows a figure of 11,250 VPD for Vasco Road and 3,700 VPD for Marsh Creek Road. Please provide an explanation of these discrepancies. What would happen to the traffic analysis if the higher ADT volumes supplied to the District by the County were used?

43.14

We believe that portions of Marsh Creek Road may already be unsafe, as demonstrated by the number of reported accidents shown at three key locations along this road. Figure 30 shows that the Marsh Creek Road/Camino Diablo (#5), Marsh Creek Road adjacent to the Pimentel Parcel (#6), and Marsh Creek Road/Deer Valley Road (#7) intersections may already be unsafe with the proposed project. How will the project affect safety at these three intersections if the 5,271 ADT figure is used as the existing condition instead of the 3,700 VPD figure? The Round Valley staging area entrance is roughly half-way between intersection 5 and 6, as shown on Figure 30. How would this intersection function with the proposed project in place?

43.15

The Round Valley LEIU provides for the construction of a 40-car graveled parking lot/staging area for access to Round Valley and the Marsh Creek Trail from Marsh Creek Road. We are concerned that this lot may be used as a park and ride lot for Cowell Ranch commuters or it could be used as an overflow lot for Cowell Ranch residents. What specific provisions will the project provide to prohibit the types of uses?

43.16

Page IV.C--61, Impact T-3 - The proposed closure of a portion of Marsh Creek Road may reduce the risk of road kills, including San Joaquin kit fox kills, however the proposed mitigation measure for this impact would offset this benefit by making Camino Diablo a 4-lane arterial, thus increasing the number of road kills on Camino Diablo. Furthermore, we believe that this project will result in increased traffic volumes on Marsh Creek Road, even with a segment closure, with the result being an increase in road kills on Marsh Creek Road. The cumulative impact to wildlife may also be significant and should be addressed in the EIR.

43.17

The EIR does not appear to address potential impacts to trail users at road crossings, including Marsh Creek Road and Deer Valley Road. The Marsh Creek Trail will cross Marsh Creek Road near its junction with Camino Diablo. The Round Valley to Black Diamond Mines Trail will cross Deer Valley Road and a yet to be determined location. How will the project accommodate these crossings and accommodate the various types of trail users, including hikers, bicyclists and equestrians?

43.18

Page IV.E--18, Impact D-1 - Because the runoff from Cowell Ranch will result in downstream flooding on Marsh Creek, the EIR should also address how the flooding may impact potential alignments for the Marsh Creek Trail.

43.19

Page IV.E--19, Mitigation D-1 - The applicant should also consult with the District to design improvements to Marsh Creek that provide a suitable alignment for construction of the Marsh Creek Trail. This mitigation measure would be consistent with Policy 7-49, page 7-33 of the Contra Costa County General Plan, as described at the bottom of Page IV.E-11 of the subject EIR.

43.20

Page IV.F--51 through 59 - This section of the EIR does not appear to address how the proposed project will affect the need for increased fire prevention and protection at Round Valley and the proposed Cowell Ranch Open Space. The EIR should also address how increasing urbanization may result in wildland fires in the project area, including Round Valley. How will proposed fire prevention measures, including fire buffers and breaks, affect the Districts ability to manage sensitive resources, such as annual grassland habitat for San Joaquin kit fox?

43.21

43.22

Page IV.F--70, Mitigation PF-16 - This mitigation measure should also provide for District involvement in the specific alignment and design of the Marsh Creek trail downstream of Cowell

43.23

Ranch where flood control improvements to Marsh Creek are required as part of Mitigation Measure D-1, as described on Page IV.E-19.

43.23

Page IV.G-4, 3rd paragraph - This paragraph describes portions of the non-native grasslands as containing "seasonally wet soils" dominated by Mediterranean barley and salt grass. These two grasses are both considered facultative wetland species. Typically, areas with seasonally wet soils that are dominated by facultative wetland plant species are under normal circumstances considered seasonal wetlands, not annual grasslands. The EIR also describes other wetland forbs as being common in these areas, including brass buttons, pepper grass and alkali heath.

43.24

It appears that the delineation and mapping of plant communities for this EIR may have underestimated the acreage of wetlands potentially affected by this project. The seasonally wet grasslands should be reevaluated to determine what types of wetlands may be present.

Page IV.G-45, (a) Permanent Loss of Kit Fox Habitat - The District concurs with the EIR's conclusion that the actual permanent loss of habitat (1470 acres) should include the golf course, isolated open space and detention basins.

43.25

Page IV.G-46, (b) Degradation of Existing Kit Fox Habitat - The closure of a portion of Marsh Creek Road may reduce potential road kills, but as described before, the proposed widening of Camino Diablo will offset this benefit by increasing road kills along the widened Camino Diablo. The construction of new roadways at Cowell Ranch will create new hazards for kit fox and other wildlife that may migrate through this area. This impact also needs to be addressed in the EIR.

43.26

Page IV.G-47, (c) Restriction in Kit Fox Migratory Movement - The reference to "historic sightings" of kit fox at Black Diamond Mines, Round Valley, Los Vaqueros and Byron Airport suggests that kit fox may no longer be present in these areas. In fact, all of these are recent sightings (1990 to present) and kit fox should be presumed to be present at all of these locations, unless proven otherwise by currently accepted methods.

43.27

Page IV.G-47, Mitigation BR-8 - It is our understanding that the Department of Fish and Game and the US Fish and Wildlife Service usually require a replacement ratio of 3:1 for permanent loss of kit fox habitat and 1.1:1 for temporary impacts to habitat. Based upon a figure of 1470 acres of permanently lost habitat and applying the 3:1 ratio to this loss, it appears that the actual mitigation for permanently lost habitat should be 4410 acres. This figure is considerably more than the 2716 and 3484 acre proposals in this mitigation measure. If either of these agencies require more than the 2716 acres of replacement habitat, the EIR should evaluate possible locations where the mitigation (deficit) would take place. An exhibit showing the precise location of impacted habitat and proposed mitigation lands would be helpful.

43.28

Page IV.G--48, Mitigations for Degradation of Existing Kit Fox Habitat - Enforcement of Contra Costa County leash laws may not be practical within an open space habitat of more than 2700 acres. The District considered, but rejected, similar restrictions for the 2024-acre Round Valley Regional Preserve, in part, because there was no cost-effective way to patrol trails on a regular basis to enforce this law. The U.S. Fish and Wildlife Service also specifically required this prohibition to protect kit fox from dog predation. The EIR does not appear to provide sufficient discussion on how such a dedicated open space would be patrolled or managed to enforce leash laws or to protect kit fox from dog predation.

43.29

Page IV.G--48, Mitigations for Restriction of Migratory Movement - The San Joaquin kit fox and other wildlife species are known to migrate across Marsh Creek Road and Camino Diablo, through Cowell Ranch, providing a major connection between Los Vaqueros, Vasco Caves and Round Valley to the south and Black Diamond Mines to the northwest. The EIR proposes to provide under crossings "wherever roads cross undeveloped wildlife movement corridors that link open space areas". It appears that both Camino Diablo and Marsh Creek Road would qualify under this definition. These two roads serve as the linkage between the Los Vaqueros Watershed, Round Valley and the Cowell Ranch Open Space. Therefore, the EIR should propose additional mitigation measures to maintain safe migration corridors for wildlife. These measures could include construction of under crossings under these roads, directional fencing and acquisition of other lands or easements along Marsh Creek Road.

43.30

The Draft EIR and Draft Habitat Management Plan for Cowell Ranch do not appear to provide adequate discussion on the operation and management of the proposed open space. If the District were to agree to take over the management of the proposed open space, the District would need to be provided with adequate funding to fulfill the EIR and permit mitigation requirements for habitat management, open space protection, public access and maintenance of infrastructure.

43.31

Page IV.G--53, Mitigation BR-10 - It is our understanding from previous studies that tiger salamanders may migrate up to one mile from estivation sites to breeding locations (Jennings and Hayes: Species of Special Concern, Department of Fish and Game, 1994). These migrations may require salamanders to cross several roads and/or migrate around artificial barriers to reach these locations. Constructing artificial barriers to prevent salamanders from crossing roads may not be a suitable mitigation measure without first understanding where salamanders estivate and to which ponds they migrate for breeding. Simply constructing barriers without this knowledge may not benefit the species. It may be necessary in some cases to trap and relocate salamanders to areas where there are both estivation and breeding sites without barriers. Jennings and Hayes (1994) found that "even minor habitat modifications that traverse the area between breeding and refuge sites (such as roads, berm and certain types of pipeline or fences) can impede or even prevent breeding migrations, and should be avoided."

43.32

The EIR should provide better information on the location of breeding ponds, estivation sites and migration corridors for tiger salamander. It is likely that some of these sites may be on adjacent District or CCWD lands. Until this level of analysis is done, the District cannot determine what effects, if any, development of the Cowell Ranch will have on tiger salamander populations at Round Valley. An accurate evaluation of impacts will also be important for determining the long-term management of mitigation sites in Round Valley.

43.32

Page IV.G--54, Loss of Habitat for Other Special Status Animals - Round Valley Creek (a tributary of Marsh Creek) at Round Valley Regional Preserve is known to contain a population of the federally-threatened California red-legged frog¹. The LEIU for Round Valley provides specific mitigation measures to protect this species. Marsh Creek and Marsh Creek Reservoir are also known to contain populations of this species that may be affected by the proposed project. The EIR states that habitat for the red-legged frog will "not be substantially affected by the project" and concludes that there would be no resulting significant impact. This impact analysis does not appear to address several potential impacts which may "substantially affect" red-legged frogs. Each of these potential impacts are described below:

- **Water Quality:** Increased urbanization and golf course development resulting from the project may result in increased sedimentation, nutrient loading, chemical contamination and water temperature increases in Marsh Creek and Marsh Reservoir.
- **Flood Control:** The EIR identifies the need for down stream flood control improvements to mitigate for increased runoff into Marsh Creek. Channelization and other flood control improvements to Marsh Creek may degrade or eliminate habitat for red legged frogs.
- **Wetlands:** The project will impact several seasonal wetlands that may provide seasonal habitats for red-legged frogs. Seasonal wetlands and drainages are known to provide important seasonal migration linkages for red-legged frogs, tiger salamanders and other amphibians. Loss of some of these may have a ripple effect in other nearby areas, such as Round Valley.
- **Predation:** Feral cats may kill and humans may collect red-legged frogs in Marsh Creek and Marsh Creek Reservoir. Golf course water hazards are frequently stocked with predatory fish which may escape into nearby drainages and prey on red-legged frogs (and tiger salamanders).

43.33

¹ The California red-legged frog was listed as a federally-threatened species in June of 1996. The "Draft Habitat Management Plan" for Cowell Ranch refers to this species as a federal-Candidate species.

Page IV.I-1 through 18 - If the proposed dedicated Marsh Creek trail uses the abandoned Marsh Creek Road alignment, would the increased pedestrian traffic in the area allow potential unauthorized destruction or damage to the adjacent prehistoric and historic sites, including the John Marsh Home? How will urban encroachment affect the John Marsh Home? What types of access will be provided to the home from Marsh Creek Road and from developed areas? What mitigation measures would be implemented to protect these sensitive resources?

43.34

Page IV.J-48, 2nd paragraph - Round Valley is currently 2,024 acres in size.

43.35

Page IV.J-49, Mitigation V-8 and Page IV.J-50 - The District concurs that the proposed project would result in a significant impact to views from Round Valley and Morgan Territory. These impacts are probably unmitigatable, however we believe that the EIR should require additional mitigation measures to further reduce potential visual impacts. Both mitigation measures reference the imposition of "hillside development standards" on a case-by-case basis when reviewing future development applications. At this time, the District does not have sufficient information to determine if these standards will consider all measures to reduce this impact to acceptable levels. We believe that the EIR should consider a broader range of mitigation, as described below:

- *Forego portions of the project in the most visually sensitive areas.* For example, eliminating the proposed golf course and providing more open space would not only reduce the visual impact, it would also reduce impacts to wetlands, water quality, San Joaquin kit fox and California tiger salamander. Such a measure would also help to preserve the visual integrity and rural flavor of Briones Valley, and provide more on-site land for mitigation of kit fox habitat losses.
- *Eliminate larger cuts and fills* (as shown on Figures 42 and 43 of the EIR). This would further reduce visual impacts from District parklands.
- *Acquire additional open space lands or easements.* This would also help further reduce these impacts by providing additional buffers to protect other nearby sensitive view sheds and habitats.

43.36

Page IV.J-51, Mitigation V-10 - The proposed "special landscape guidelines" to protect and enhance scenic riparian features could be developed in tandem with other mitigation measures, such as protecting water quality and habitat values in Marsh Creek. Plant species chosen for enhancement and restoration purposes should be "site-native" species that are fire resistant and will not pose maintenance concerns to the District or Contra Costa County Flood Control.

43.37

Page IV.J-51, Mitigation of Marsh Creek Trail - The District would like to be involved in the

43.38

Mr. James Cutler
January 3, 1997
Page 11

development and review of a trail design that fully integrates mitigation for visual impacts associated with construction of the proposed project, trail and flood control improvements to protect views of and from Marsh Creek.

↑
43.38

Thank you for the opportunity to provide comments on the draft EIR for this project. The District recognizes that the County and their EIR consultant have made reasonable efforts to identify potential impacts and propose mitigation measures for District facilities affected by the proposed project. We also appreciate the Cowell Foundation's efforts to meet with the District to identify potential areas of concern and to propose creative solutions to address these concerns, such as the proposed dedication of a trail and open space to the District as part of this project. Furthermore, we recognize that the District has provided substantial written comments on the Draft EIR and that we will continue to work with the County and the Cowell Foundation to identify solutions to address District concerns raised in this letter. If you would like to schedule a meeting to discuss our comments or if you have any questions on our letter, please call me at (510) 635-0138 x2622 or Martin Vitz at x2621.

Sincerely,



Brad Olson
Environmental Specialist

Attachments (1)

cc. EBRPD Board of Directors
Pat O'Brien, EBRPD, General Manager
Bob Doyle, EBRPD, Assistant General Manager
Martin Vitz, Advance Planning Chief
Mitch Oshinsky, City of Brentwood, Planning Director
Louise Rice-Lawson, Cowell Foundation

EAST BAY REGIONAL PARK DISTRICT

February 3, 1993

Mr. James Cutler
Community Development Department
County of Contra Costa
651 Pine Street
Martinez, CA 94553

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General Manager

SUBJECT: EIR FOR THE COWELL RANCH GPA, C.F. #1-92-CO
ROUND VALLEY TO BIG BREAK TRAIL

Dear Mr. Cutler:

The East Bay Regional Park District has reviewed the Notice of Preparation and Initial Study for the subject project and offers the following comments.

In the discussion of wildlife impacts, the EIR should note that recent field investigations have documented the presence of the endangered San Joaquin kit fox both in Round Valley and in Black Diamond Mines Regional Parks (Bell, H., 1992, San Joaquin Kit Fox Survey and Management Options, East Bay Regional Park District, Oakland, CA.) This implies movement between these parklands which may involve movement through the subject property. The EIR should address this possible wildlife movement pattern and specifically address whether the project might inhibit its movement; thereby, causing a reduction in the northerly range of this officially protected species. If this were to occur, the EIR should address the probability of extirpation of the San Joaquin kit fox from Black Diamond Mines Regional Park. The District would regard such a loss as a significant adverse impact upon the natural resources of its parkland.

43.39

The District notes that its planned Round Valley to Big Break Trail (also referred to as the "Marsh Creek Trail") would cross this property and is included in the Illustrative Concept Plan. The District asks that the EIR specifically address the proposed trail alignment with respect to potential impacts upon the riparian plants and animals along Marsh Creek. The trail parallels and may cross the creek. The EIR should also address the safety of the proposed trail alignment with respect to adjacent golf course holes and to proposed street crossings.

The Illustrative Concept Plan provided with the Initial Study shows a variety of park, recreation, and open space uses but does not specify how these might be preserved in perpetuity. If that open space is to be dedicated to the EBRPD, the District offers the following factors to determine the feasibility of open space management by the EBRPD. These factors include site configuration, buffer zones, access, public use, water sources, and funding of ongoing maintenance.



Mr. Jim Cutler
February 3, 1993
Page Two

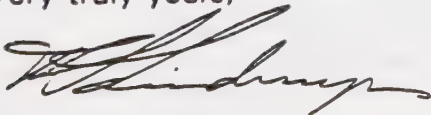
- Configuration of the open space must be such that it includes at least 200 acres of grazable grassland (not including the areas which will be excluded from grazing - e.g., sensitive habitat) and which has a boundary that is fenced in a reasonably maintainable configuration.
- Buffer zones between open space and developed areas must be sufficient to allow the owners of the developed areas to include within the buffer zone, fire breaks and any previously repaired landslides. Previously repaired landslides must not be part of the publicly owned open space. Perimeter public streets are desirable as part of a buffer zone.
- Access points to open space must include at least one location where heavy trucks can bring cattle in and take them out. There also must be an appropriate number of access points and service roads for emergency and maintenance vehicles.
- Public use of the open space must be compatible with adjacent land uses. For example, staging areas and access points can be associated with other public and quasi-public uses including neighborhood parks and schools.
- Water sources for cattle or provisions for importing domestic water supplies for cattle troughs and trailside drinking water must be assured and must be reasonably distributed across the site.
- Funding mechanisms (e.g., a lighting and landscaping district) to fund ongoing maintenance must be assured.

43.39

While portions of the open space currently illustrated may meet these criteria, most do not appear to do so. In addition, the District requests that the EIR specifically address the potential threat to public health and safety due to subsidence caused by the collapse of the old sand mine workings on lands proposed as open space.

The contact person for the subject document is the undersigned who may be reached at (510) 635-0138 extension 2622.

Very truly yours,



T.H. Lindenmeyer
Environmental Specialist

C:\ticowell.ew

bcc: R. Doyle
J. DiDonato
M. VITZ
S. FIALA



65 JAN -9 AM 10:55

DEVELOPMENT DEPT

January 4, 1997

James Cutler
Assistant Director, Comprehensive Planning
Community Development Department
Contra Costa County
County Administration Building
651 Pine Street
Martinez, CA 94553-0095

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Rick L. Gilmore

Office Manager

Betty Compilli

Subject: Draft Environmental Impact Report – Cowell
Ranch General Plan Amendment

Dear Mr. Cutler:

Thank you for providing Byron Bethany Irrigation District (BBID) with a copy of the subject report. BBID appreciates the opportunity to provide you our comments on the Draft EIR, which relate to Section IV.F. Public Facilities and Services.

The EIR is correct in stating that "the project applicant and BBID have entered into a water services agreement wherein BBID will provide the project with up to 3,900 acre feet of raw water annually". The water services agreement constitutes an irrevocable offer to provide the project applicant with water subject to terms and conditions set forth in the agreement. A copy of the agreement is attached as Exhibit "A".

44.01

Specifically, the Draft EIR incorrectly describes the Sphere of Influence and annexation approval process relating to BBID on Pages IV.F-22 and 23. The EIR indicates that "the Sphere of Influence boundary change and subsequent annexations would require approval by DWR and LAFCO". Sphere of Influence boundary changes and annexations only require the approval of LAFCO.

44.02

Page 2
James Cutler
Community Development Department
Draft EIR – Cowell Ranch

Thank you again for the opportunity to provide comments on the Draft EIR. If you have any questions please feel free to call me at any time at (510) 634-3534.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Gilmore", with a stylized flourish at the end.

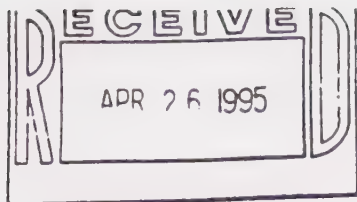
Rick Gilmore
General Manager

Attachment: Exhibit "A"

ATTACHMENT:

EXHIBIT

"A"



COPY

WATER SERVICES AGREEMENT BETWEEN
BYRON-BETHANY IRRIGATION DISTRICT AND
S.H. COWELL FOUNDATION - COWELL RANCH PROJECT

THIS AGREEMENT is made and entered into between Byron-Bethany Irrigation District operating under and by virtue of Division 11 of the California Water Code (hereinafter called "BBID"), and the S.H. Cowell Foundation, a California Non-Profit Public Benefit Corporation and Private Foundation (hereinafter called "Cowell").

NOW, THEREFORE, the undersigned parties agree, for full and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, as follows:

RECITALS

This Agreement is made with reference to the following facts and conditions which the parties hereto agree are a true and accurate description of the basis upon which this Agreement is made:

A. WHEREAS, BBID originally claimed water flowing in Old River, at the point where the west bank of Old River intersected the south bank of a branch or channel making south from said Old River and designated as "Italian Slough" which water flows extended to the use of 40,000 miner's inches measured under a 4-inch pressure and continues to divert said water flows pursuant to a "Notice of Appropriation of Water" dated May 18, 1914, and executed by the president and secretary of the then Byron-Bethany Irrigation Company, predecessor in interest to BBID, and, as a result thereof, BBID has the right to so divert water for agricultural, municipal and industrial purposes;

B. WHEREAS, BBID subsequently entered into a contract with the State of California in 1964 to avoid condemnation proceedings by the State which proposed to eliminate a portion of BBID's S-45 Lateral Canal by construction and installation of the Intake Channel to the Harvey O. Banks pumping plant; and

C. WHEREAS, BBID has the right to divert water from the Harvey O. Banks Intake Channel to the California Aqueduct pursuant to written Agreement No. 353311, dated May 4, 1964, with the State of California Department of Water Resources; and

D. WHEREAS, BBID currently provides water services for agricultural, municipal and industrial purposes, with some of the lands receiving such services being capable of irrigation but being intended to be used for residential, domestic and business purposes pursuant to Water Code Section 20702; and

E. WHEREAS, BBID has the right to deliver water for domestic, municipal and industrial purposes pursuant to Water Code Sections 22075 and 22076, these rights originally having been expressly conferred by Section 15(b) of the California Irrigation District Act which preceded the California Water Code and expressly provided for distribution of water for domestic purposes; and

F. WHEREAS, BBID has previously entered into other agreements and made other commitments to become one of numerous irrigation districts in California which provide water for domestic, municipal and industrial purposes as well as agricultural purposes; and

G. WHEREAS, Cowell is the owner of approximately 4,900 acres of land located westerly of the present boundaries of BBID; and

H. WHEREAS, a portion of the land described in Recital G above is located within the boundaries of the East Contra Costa Irrigation District and a further portion of such land may be annexed to the East Contra Costa Irrigation District, and, therefore, it is anticipated that a portion of the land described in Recital G above may be served by East Contra Costa Irrigation District water if arrangements for such service can be made by Cowell; and

I. WHEREAS, Cowell is currently seeking to obtain certain general plan, zoning, subdivision and other approvals from Contra Costa County in connection with Cowell's proposed development of a portion of the land described in Recital G above; and

J. WHEREAS, on May 10, 1994, BBID entered into a memorandum of understanding with Cowell (hereinafter "MOU") which set forth ultimate water services requested of BBID by Cowell; and

K. WHEREAS, as a result of the performance and completion of the work set forth in the MOU, BBID has determined that making water services and supplies available to the Cowell Ranch Property would not reduce water services and supplies to District landowners whose property currently is located within the boundaries of BBID; and

L. WHEREAS, BBID has the right to change the place and purpose of use of BBID's pre-1914 water right to include use for domestic, municipal and industrial purposes on all or a portion of the lands of Cowell as described in Recital G above; and

M. WHEREAS, during different periods throughout the phased development of the lands owned by Cowell described herein, portions of such land will remain in agricultural production, portions of such land will use water supplies for domestic, municipal and industrial purposes, and portions of such land will use no water supplies but will need water availability; and

N. WHEREAS, Cowell proposes to have BBID construct necessary facilities, and to obtain (subject to the approval and subsequent transfer thereof to BBID) or have BBID obtain necessary rights of way, to divert and convey a raw water supply which will be supplied by BBID to Cowell, at such place as may be designated by Cowell and approved by BBID in accordance with this Agreement, for storage, treatment, transmission, and distribution by Cowell and/or others.

1.0. INCORPORATION OF RECITALS.

The recitals contained herein are an integral part of this Agreement.

2.0. DEFINITIONS.

2.1. Agricultural Use: The use of water primarily in the production of agricultural crops or livestock including, but not limited to, domestic use incidental to such agricultural purposes and the use of water for livestock.

2.2. BBID: The Byron-Bethany Irrigation District.

2.3. BBID Facilities: Conduits, pipes, pumps and other works owned or controlled by BBID and used by BBID to convey water to or drain water from lands whether inside or outside of the boundaries of BBID.

2.4. BBID Water Supply: All water now or hereafter available to or received by BBID, including, but not limited to, water available or received pursuant to pre-1914 appropriative or riparian and post-1914 appropriative water rights, groundwater, reclaimed water and water available to BBID from any other source.

2.5. Cowell: S. H. Cowell Foundation, and its successors and assigns.

2.6. Cowell Ranch Property: That portion of the land owned by Cowell more particularly identified in Exhibit "A" which is hereafter annexed to BBID.

2.7. Cowell Ranch Service Facilities: Facilities to be constructed to provide water service for municipal, industrial and domestic use to the Cowell Ranch Property, including, but not limited to, pipelines, pumps, water treatment plant, raw water storage facilities and water treatment facilities.

2.8. Diversion Agreement: BBID's right to divert water from the Harvey O. Banks Intake Channel to the California Aqueduct pursuant to written Agreement No. 353311 with the State of California Department of Water Resources dated May 4, 1964.

2.9. Municipal, Domestic and Industrial Use: The use of water for other than agricultural use.

2.10. Non-BBID: Water available to the Cowell Ranch Property from sources other than BBID Water Supply.

2.11. Pre-1914 Water Right: BBID's right to water pursuant to the "Notice of Appropriation of Water" dated May 18, 1914.

3.0. WATER SERVICE.

3.1. Quantity of Water: Subject to the provisions of this Agreement and existing California statutory law set forth in the California Water Code, BBID shall provide to Cowell a quantity of raw water sufficient to supply up to and including 3,900 acre-feet of treated water on an annual basis (at such times as may be designated by Cowell in order to serve the estimated water requirements for the Cowell Ranch Property at build-out of approximately 3.5 million gallons of treated water on a daily basis), in the manner provided in BBID's then current rules and regulations. The water supplied to Cowell pursuant to this agreement will be measured by BBID in accordance with the provisions of paragraph 8.1 below.

3.1.1. No Acquisition of Water Rights by Cowell Ranch Property: As a result of the terms and provisions of this Agreement, any action which may be taken under the terms and provisions of this Agreement, the enlargement of the sphere of influence of BBID or the eventual annexation of a portion or all of the Cowell Ranch Property to BBID, BBID does not grant, transfer, or assign to Cowell, and the Cowell Ranch Property shall not possess or gain, (i) any right or interest, either in law or contract, to demand any proportion of or share in the water rights (whether riparian, pre-1914 appropriative, post-1914 appropriative, groundwater or of any other type or nature) now or hereafter held by BBID, or (ii) any interest in BBID's water entitlement, water contracts or water or water supply held by or anticipated to be held by BBID. This Agreement, together with the resolution of acceptance of BBID's Board of Directors, shall be the sole source of the Cowell Ranch Property's rights to water service from BBID. Cowell covenants that it shall take no action or make any claim that it is directly or indirectly entitled to any amounts of water from BBID which are otherwise available to BBID except as otherwise provided by the terms and provisions of this Agreement. Upon recordation of this Agreement and the resolution of acceptance of BBID's Board of Directors, and upon transfer of all or any portion of such land constituting the Cowell Ranch Property, each successor in title or interest (whether legal or equitable) to all or any portions of the Cowell Ranch Property, by acceptance of a deed to such property, shall be deemed to have conclusively agreed and consented to the terms of this Agreement. Such successors shall further, by acceptance of such title or interest and constructive notice of the terms and provisions of this Agreement arising from the recordation hereof, without the necessity of showing actual notice of or consent to, the terms of this Agreement, be estopped thereafter from asserting or contending that any of the terms or provisions of this Agreement are unlawful, contrary to public

policy, ultra vires or that they are unenforceable in whole or in part for any other reason or cause.

3.2. Increased Water Allocation to Cowell:

3.2.1. Additional Water Use: Should BBID determine at any time that water in excess of the quantity of water required to be supplied pursuant to paragraph 3.1 above is available from the BBID Water Supply for delivery for the benefit of the Cowell Ranch Property, Cowell shall have the right to obtain from BBID any such additional water provided that Cowell first receives the approval and consent of BBID to water service pursuant to the BBID's then existing rules and regulations and otherwise subject to the terms and conditions of this Agreement.

3.3. Non-Availability of Water: Cowell has requested, received and reviewed the pleadings, papers, records and other documents generated in Sacramento County Action No. 282495 and San Francisco County Action No. 765609 entitled State of California vs. Byron-Bethany Irrigation District et al., which action was filed on or about June 26, 1979 and was subsequently dismissed in or about December, 1986. Cowell is satisfied with its review of the above materials and, for itself and for each and every of its successors, assigns, customers and water users, releases and discharges BBID from, and waives as to BBID with respect to, any and all claims, actions, causes of action, liabilities, losses, costs or expenses incurred or suffered by Cowell, or any of its successors, assigns, customers or water users, by virtue of the non-existence or diminished water supplies promised in this Agreement by the action of the State of California, the United States Government or third parties, provided that the impact of any such reduction in water supplies is borne by all customers and water users of BBID on a fair, reasonable and consistent basis.

4.0. ANNEXATIONS.

Upon written request from Cowell, BBID will use its best efforts to enlarge its sphere of influence in Contra Costa County to cover, and to annex, such portion of the land described in Exhibit "A" hereto as may be designated by Cowell. All reasonable costs directly related to the sphere of influence enlargement and subsequent annexation of all or a portion of such land shall be borne by Cowell.

5.0. WATER SERVICE FACILITIES.

In order to deliver water to the Cowell Ranch Property for municipal, industrial and domestic use, BBID shall design, construct and install the facilities described in paragraphs 5.1 and 5.2 below, all at Cowell's cost and expense.

5.1. Intake Facilities: Subject to the provisions of paragraph 5.6 below, if BBID determines that, in connection with the diversion of water into a raw water conveyance pipeline facilities described in paragraph 5.2 below, it is necessary to construct a pump house, pumps and appurtenant facilities (the "New Pumping Facilities") within BBID's diversion easement or a new diversion easement on the north side of the Intake Channel pursuant to the 1964 Agreement with the State of California, BBID shall give Cowell written notice of such determination. (If built, the New Pumping Facilities will be adjacent to but independent of BBID's existing pumping facilities.) At such time following the approval of the California Department of Water Resources as Cowell determines in its sole discretion, BBID shall cause the New Pumping Facilities to be designed and constructed.

5.2. Conveyance Pipeline: Subject to the provisions of paragraph 5.6 below, in the event Cowell exercises the option described in paragraph 10.0 below, BBID shall, at such time as Cowell determines in its sole discretion, cause such water conveyance pipeline and appurtenant facilities (the "New Conveyance Facilities") as are needed to deliver the water supplied pursuant to this Agreement to be designed and constructed. The New Conveyance Facilities shall be constructed along such route as Cowell and BBID shall mutually select, subject, however, to the completion by BBID of any environmental study, evaluation or analysis which applicable law may require be undertaken, all to be performed at Cowell's cost. Notwithstanding the foregoing, the location to which BBID shall deliver the raw water to be acquired by Cowell pursuant to this Agreement shall be designated by Cowell in its sole discretion. The New Conveyance Facilities, or any portion thereof, may be situated within existing BBID rights-of-way so long as they do not interfere with BBID's existing facilities located therein.

5.3. Design and Construction: The design of the New Pumping Facilities and the New Conveyance Facilities which BBID causes to be prepared shall be consistent with Cowell's basic design parameters pertaining to matters such as the sizing of pumps and pipelines, the route of the New Conveyance Facilities, the minimizing of conveyance losses and line losses (such as evaporation and seepage) and the cost effectiveness of the design. Additionally, each contract for the construction or installation of all or any portion of the New Pumping Facilities and/or the New Conveyance Facilities shall be awarded to the lowest responsible bidder in accordance with and pursuant to the laws, rules and regulations of the State of California for public contracts.

5.4 Ownership of Facilities: The New Pumping Facilities and the New Conveyance Facilities shall be owned by BBID, and Cowell shall have no liabilities, duties or obligations whatsoever for or with respect to the design, construction, installation, ownership, operation, maintenance, repair or replacement of the New Pumping Facilities or the New Conveyance Facilities.

5.5. Treatment and Storage of Raw Water: It is presently contemplated that the water to be delivered by BBID pursuant to this Agreement will be non-potable, and,

accordingly, unless BBID and Cowell hereafter agree, by a separate written agreement, that BBID will deliver potable water, BBID shall have no obligation for the treatment of, nor for the construction of facilities necessary to treat, such water; and Cowell agrees that it will be responsible for arranging for any necessary storage and treatment in accordance with all applicable local, state and federal laws and regulations of the raw surface or ground water delivered by BBID pursuant to this Agreement. Prior to the construction of the New Conveyance Facilities, Cowell shall designate the storage and/or treatment facilities to which BBID shall deliver such water, which point of delivery shall be subject to the approval of BBID, which approval shall not be unreasonably withheld. Cowell acknowledges that BBID may have a right to store its pre-1914 water, which right may be utilized by Cowell as an overall component of its water supply system. In the event that BBID determines at a later date to maintain and operate its own water treatment, storage and appurtenant facilities, if Cowell then owns such storage, treatment and appurtenant facilities, Cowell will, upon BBID's request, negotiate with BBID for BBID's possible acquisition of such facilities from Cowell on such terms and subject to such conditions as BBID and Cowell may mutually agree upon, provided that such acquisition shall not have an adverse impact on the delivery of potable water to the Cowell Ranch Property. If the parties are unable to mutually agree upon such terms and conditions, BBID shall not be entitled to acquire, and Cowell shall have no obligation to sell and transfer, such facilities, and BBID shall have no right to deliver treated water to all or any portion of the Cowell Ranch Property.

5.6. BBID Cooperation: BBID shall cooperate with Cowell: (i) in obtaining any and all approvals which may be required for construction and operation of the New Pumping Facilities, the New Conveyance Facilities and the water storage and treatment facilities described in paragraph 5.5 above and in the undertaking of analyses of water availability in connection with Cowell's general plan, zoning, subdivision and other applications before Contra Costa County (including the processing of an environmental impact report in connection therewith), provided that Cowell shall reimburse BBID for all costs reasonably incurred by it in connection therewith; and (ii) by acquiring (at Cowell's cost and expense) such rights of way as may be required in connection with the construction, maintenance and ownership of the New Conveyance Facilities.

5.7 Wheeling of Non-BBID Water: Cowell shall have the right to utilize the New Pumping Facilities and the New Conveyance Facilities for conveyance of non-BBID water on the terms and subject to the conditions set forth in this Agreement or such other conditions imposed by BBID as for providing wheeling services as set forth in paragraph 8.0 below.

6.0. NON-INTERFERENCE.

6.1. Drainage Responsibility: As lands within the Cowell Ranch Property are removed from irrigation and developed for non-agricultural uses, Cowell (and not BBID) shall be responsible for drainage of those lands in accordance with the law. In that regard,

Cowell, for itself and for each and every of its successors, assigns, customers and water users, releases and discharges BBID and its directors, officers, officials, employees, agents and independent contractors from, and waives as to BBID and its directors, officers, officials, employees, agents and independent contractors, any and all liability to any third party, with respect to, any and all claims, actions, causes of action, liabilities, losses, costs or expenses incurred or suffered by Cowell, or any of its successors, assigns, customers or water users, arising directly or indirectly, from any act or omission or alleged act or omission arising from the performance or failure to perform any duty or obligation pursuant to the provision of this paragraph, including, without limitation, all expenses, attorney fees and other costs.

6.2. Reclaimed Water: Cowell may (but shall not be obligated to) construct, install, operate and maintain reclaimed water treatment facilities which facilities are in full compliance with then applicable law. Cowell may (but shall not be obligated to) propose to transfer such reclaimed water to BBID for use as groundwater recharge or carriage water down Kellogg Creek for eventual use for agricultural irrigation purposes upon lands within BBID, or for any other purpose, on such terms and conditions as may be mutually acceptable to both Cowell and BBID. Additionally, Cowell may use such reclaimed water for any other lawful purpose either within the Cowell Ranch Property or outside the boundaries of BBID, and in connection with such use may transfer, sell and/or convey such reclaimed water to another person or entity.

7.0. WATER DELIVERY: ANNUAL REPORT.

7.1 Water Delivery: Subject to the provisions of paragraph 5.6 above, water utilized by Cowell for municipal, domestic and industrial use shall be delivered by BBID through the New Pumping Facilities and New Conveyance Facilities.

7.2 Annual Report: On or before December 1 of each year following Cowell's acceptance of the irrevocable offer of BBID as described in paragraph 10.0 below, Cowell shall provide BBID with an annual report (the "Annual Report"), applicable to the upcoming one year period which starts on January 1 of the following year. The Annual Report shall set forth Cowell's estimate (applicable to that portion of the Cowell Ranch Property which is within BBID's boundaries) of: (i) the acreage and location of land within the Cowell Ranch Property which may use BBID water for domestic, industrial or municipal purposes during the year in which the Annual Report is delivered to BBID (the "Previously Developed Land"); (ii) the acreage and location of land within the Cowell Ranch Property which did not use BBID water for domestic, industrial or municipal purposes during the year in which the Annual Report is delivered to BBID but which will be using BBID water for any such purpose during the year to which the Annual Report applies (the "Land to be Developed During the Annual Report Year"); and (iii) the quantity of BBID water which will be required for domestic, industrial or municipal uses conducted on the Previously Developed Land and on the Land to be Developed During the Annual Report Year. The Previously Developed Land and the Land to be Developed During the Annual Report Year described in the Annual Report shall be identified by Assessor's

Parcel Number, tentative or final parcel or subdivision map information, or other similar reference. The estimates set forth in the Annual Report shall be made in good faith based upon the information available to Cowell at the time it prepares the Annual Report, but such estimates shall not establish a limit on the amount of acreage which may be used for any of domestic, industrial or municipal purposes nor the amount of BBID water delivered or to be delivered for use on the Cowell Ranch Property. The obligation to provide the Annual Report shall cease upon full development of all domestic, municipal and industrial uses within that portion of the land described in Exhibit "A" hereto which is annexed to BBID.

8.0. ESTABLISHMENT OF RATES AND CHARGES FOR WATER SERVICES.

8.1 Right of BBID to Establish Rates, Charges and Levies: Cowell acknowledges that BBID shall have the right, from time to time, by resolution adopted by its Board of Directors, to establish such rates, charges and levies as may be reasonably necessary for the operations of BBID and are permitted by law. The quantity of water which is diverted by BBID for the benefit of the Cowell Ranch Property shall be determined by meters installed at the point to which such water is delivered to the storage or treatment facilities described in paragraph 5.5 above. All such metering and other measuring devices shall be subject to the approval of BBID and shall be constructed and installed by BBID at Cowell's cost. In determining the amount of water which is delivered by BBID pursuant to this Agreement for payment purposes, non-BBID water which is diverted through the New Pumping Facilities and the New Conveyance Facilities shall be subtracted from the total quantity of metered water delivered to Cowell; provided that if such non-BBID water is owned by Cowell and conveyed at Cowell's request, Cowell shall pay BBID a charge (in an amount to be determined by BBID at the time of Cowell's request for delivery of non-BBID water) to reimburse BBID for the costs and expenses which it actually incurs in wheeling water through BBID facilities for the benefit of Cowell.

8.2. Standby and/or Water Availability Charge Pursuant to Water Code Section 22280: Commencing upon (and accruing as of) the date of the completion of the construction and installation of the New Pumping Facilities and the New Conveyance Facilities (such that BBID is able to deliver water pursuant to this Agreement to the delivery point designated by Cowell in accordance with paragraph 5.5 above), Cowell shall become obligated to pay the standby and/or water availability charges described in this paragraph if imposed by BBID through a resolution adopted by its Board of Directors. The initial and all subsequent standby and/or water availability charge shall be determined by BBID's Board of Directors pursuant to its then current rules and regulations, based upon the annual quantity of water made available to the Cowell Ranch Property for municipal, industrial and domestic use. The water availability and/or standby charge shall be delivered by BBID to Cowell and shall be paid by Cowell on a monthly basis on the first day of each and every month. Following BBID's receipt of the Annual Report delivered pursuant to paragraph 7.2 above, BBID's Board of Directors shall establish the standby and/or water availability charge rates for the year as to which the Annual Report applies based upon its review of applicable standby and/or water availability

charges levied on similar property by other water and/or irrigation districts in Northern California. The standby and/or water availability charges to be paid by Cowell shall then be calculated by applying the standby and/or water availability charge rates so established by BBID's Board of Directors to the acreage of the Land to be Developed During the Annual Report Year and the amount of BBID water to be used thereon as identified in the Annual Report, and shall be charged and levied during the year as to which such Annual Report applies against those portions of the Cowell Ranch Property which are identified in the Annual Report as Land to be Developed During the Annual Report Year. The standby and/or water availability charges shall cease to be charged to or levied against each portion of the Cowell Ranch Property (on a parcel-by-parcel basis) when such BBID water is used on such property (which for the purposes of this paragraph shall be deemed to occur when water lateral lines serving such land are connected to the water distribution system serving the Cowell Ranch Property).

9.0. FULL BENEFICIAL USE.

9.1. Water Use: Provided that the annexation described in paragraph 4.0 occurs, the water supply made available pursuant to this Agreement may be used in the Cowell Ranch Property for agricultural, domestic, municipal and/or industrial uses, provided that the use of any reclaimed water by Cowell shall be subject to all applicable federal, state and local laws and/or regulations. Additionally, the water supply made available pursuant to this Agreement may be used for any other purposes set forth below. Cowell reserves the right to determine the method of distributing water from the delivery point established pursuant to paragraph 5.5 to the Cowell Ranch Property and within the boundaries of the Cowell Ranch Property, provided that such water is not distributed and/or used outside the boundaries of BBID without first receiving a determination from BBID's Board of Directors that such waters are surplus to the needs of landowners and water users within BBID pursuant to the then current rules and regulations and applicable provisions of the California Water Code and/or existing law. Cowell and BBID shall mutually determine if it is necessary or appropriate for BBID to bring any action in Superior Court or before the State Water Resources Control Board in order to confirm any change or expansion in use of the water supplies made available to the Cowell Ranch Property pursuant to the terms and provisions of this Agreement. Cowell shall bear all reasonable costs of proceeding with any such actions.

9.2. Phased Development of Cowell Ranch Property: Cowell and BBID understand and agree that because the Cowell Ranch Property will be developed over a number of years, there will be years when the full amount of water allocated to Cowell pursuant to this Agreement cannot be used within the Cowell Ranch Property. Cowell understands that BBID's water rights were acquired and are operated and utilized for the full benefit of landowners and water users within the boundaries of BBID and that, during years in which the full amount of water so allocated to Cowell will not be used by Cowell, BBID's Board of Directors shall have the right to put Cowell's unused water to beneficial use in the Board's discretion pursuant to then current rules and regulations and California law.

10.0. EFFECTIVE DATE; CONSIDERATION OF THIS AGREEMENT AS IRREVOCABLE OFFER.

This Agreement shall become effective upon the date of the signature of the last signing party. Cowell, however, will not require BBID to deliver water pursuant to this Agreement until all necessary permits or approvals for the development of the Cowell Ranch Property have been obtained from other State, Federal and local agencies. Therefore, BBID and Cowell understand and agree that the execution of this Agreement by Cowell and BBID constitutes an irrevocable offer to Cowell by BBID to divert, convey and sell the quantity of water specified in paragraph 3.0 above on the terms and provisions set forth in this Agreement. The irrevocable offer extended by BBID is supported by Cowell's payment of Ten Thousand Dollars (\$10,000) within thirty (30) days after the date on which this Agreement is executed by BBID and annually thereafter within fifteen (15) days of the anniversary of such date until either said offer is accepted by Cowell or Cowell terminates this Agreement. The irrevocable offer shall terminate on the fifth anniversary of the BBID's execution of this Agreement (i.e., March 20, 2000), unless prior to such date Cowell either (i) accepts such irrevocable offer by giving written notice of such acceptance to BBID or (ii) gives written notice that it rejects such irrevocable offer and expects to terminate this Agreement. At such time as (i) Cowell accepts or rejects such irrevocable offer or (ii) such deadline passes without Cowell having either accepted or rejected such irrevocable offer, the obligation to make the foregoing \$10,000 annual payment shall terminate. If Cowell either fails to accept such irrevocable offer by such deadline or gives written notice that it rejects such irrevocable offer, then such irrevocable offer shall terminate and be of no further force and effect despite the fact that this Agreement has been executed by both BBID and Cowell, unless such offer is subsequently reinstated or ratified by BBID.

11.0. RECORDS

BBID shall provide Cowell with monthly bills for water services including water availability and/or standby charges which shall reflect water use reports for all lands within the Cowell Ranch Property which have been annexed to BBID.

12.0. FURTHER ACTIONS.

In the event any third party challenges the right or authority of BBID to transmit, convey and/or distribute water pursuant to the terms and provisions of this Agreement, BBID shall take such actions (at Cowell's cost and expense) in response thereto as BBID and Cowell mutually determine are appropriate.

13.0. WATER QUALITY.

The parties acknowledge that the water to be supplied to Cowell by BBID pursuant to the terms and provisions of this Agreement, the then current BBID rules and regulations, and applicable provisions of the California Water Code, is non-potable. Cowell assumes all

responsibility for producing a water supply sufficient for municipal, industrial and/or domestic use and for compliance with all local, state and federal requirements for the provision of potable water. BBID does not guarantee in any respect or assume any responsibility for the chemical, bacterial or other quality of the raw water made available to Cowell or its compatibility for water treatment provided that BBID may elect to supply treated water services for the benefit of Cowell subject to a subsequent mutual agreement of the parties.

14.0. ASSESSMENTS.

Cowell recognizes that the Cowell Ranch Property will become subject to BBID ad valorem taxes and assessments upon annexation thereof to BBID. Cowell recognizes and agrees that the purposes to which future assessments against such property will be used (such as the existence and supplies of raw and perhaps treated water by BBID) will confer both direct and indirect benefits upon such properties. Cowell agrees that the owners of that portion of the Cowell Ranch Property which is annexed to BBID shall be responsible for the payment of all assessment levied by BBID against that portion of the Cowell Ranch Property owned by them which is located within the boundaries of BBID.

15.0. MUNICIPAL, INDUSTRIAL AND DOMESTIC WATER SUPPLY.

Unless BBID and Cowell enter into a subsequent written agreement by which BBID agrees to deliver treated, potable water (rather than raw water) to all or some portion of the Cowell Ranch Property: (i) BBID shall have no responsibility for complying with any local, state or federal requirements for the treatment and/or storage of domestic, municipal and/or industrial water supply; and (ii) Cowell shall indemnify and hold harmless BBID, its directors, officers, officials, employees, agents and independent contractors from any and all liability to any third party, arising directly or indirectly from any act or omission, or alleged act or omission, arising from the performance, or failure to perform, any duty or obligation arising out of, or in connection with, the provision of domestic, municipal and/or industrial water supply including water treatment storage and availability; which indemnification includes, but is not limited to, all reasonable expenses, attorney fees and other costs.

16.0. VALIDATION PROVISIONS.

Cowell and BBID shall mutually determine whether or not BBID: (i) should bring a validation action with respect to any of the terms or provisions of this Agreement including, but not limited to, the right to store water, the inclusion and extension of BBID's pre-1914 water rights to service areas of land within the Cowell Ranch Property upon annexation to BBID, and the provisions of municipal, industrial, and domestic water supplies within the boundaries of BBID; and (ii) should bring any actions in Superior Court or before the State Water Resources Control Board in order to confirm any change or expansion in use of the water supplies made available to Cowell pursuant to the terms and provisions of this Agreement. In the event the

parties elect to bring any such action, Cowell shall bear all reasonable costs associated with such action(s).

17.0. RESPONSIBILITY OF CONVEYING, TRANSMITTING AND DISTRIBUTING WATER.

BBID shall be responsible for the conveyance, transmission and distribution of water through the New Pumping Facilities and the New Conveyance Facilities to such location as Cowell may designate for the storage and/or treatment thereof.

18.0. INDEMNIFICATION.

BBID and Cowell each agree to indemnify the other and save the other free and harmless of and from any and all liability, damage, loss, cost, or expense incurred or suffered by the other, by reason of damage to the property of the other or injury to any other person or property arising out of its own conduct, acts, omissions, or faults, in connection with any matter related to this Agreement except as otherwise set forth herein.

19.0. COWELL'S RIGHT TO REDUCE WATER REQUIREMENTS.

Cowell shall have the right, in its sole discretion and at any time, either before or after its acceptance of the irrevocable offer of BBID as described in paragraph 10.0 above and until full development of all domestic, municipal and industrial uses within the Cowell Ranch Property has occurred, to reduce the amount of water which BBID is required to deliver to it pursuant to the provisions of this Agreement (as such amount is specified in paragraph 3.1 above) by written notice to BBID.

20.0. RELATIONSHIP OF PARTIES.

Nothing contained in this Agreement shall be deemed or construed by the parties or by any third party to create the relationship of principal and agent, a partnership, joint venture, or of any other association between the parties.

21.0. NO RIGHT IN THIRD PARTIES.

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any third party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party to any party in this Agreement nor shall any provision in this Agreement give any third party any right of subrogation or action over or against any party to this Agreement.

22.0. SPECIFIC PERFORMANCE.

By reason of the specialized nature of the water service to be rendered, and for the further reason that the extent of any damage caused to any party by reason of any breach of this Agreement may be extremely difficult to determine, it is agreed by the parties hereto that an action for damages is an inadequate remedy for any breach, and that specific performance, without precluding any other remedy available in equity or at law, will be necessary to furnish any party hereto with an adequate remedy for the breach by any other party hereto of any covenant or obligation for the benefit of the aggrieved party.

23.0. ASSIGNMENT. The rights of Cowell pursuant to this Agreement shall not be assigned or transferred by Cowell without the prior written consent of BBID, which consent shall not be unreasonably withheld.

24.0. SEVERABILITY.

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be effected, impaired or invalidated.

25.0. ENTIRE AGREEMENT.

The parties agree that there are no warranties, either express or implied, that there are no covenants, promises or expectations other than those contained in this Agreement, and that this Agreement is full and entire.

26.0. AMENDMENT.

This Agreement may be amended only by a written instrument duly executed by the parties.

27.0. WAIVER.

The waiver or failure to declare a breach as a result of the violation of any term of this Agreement shall not constitute a waiver of that term or condition and shall not provide the basis for a claim of estoppel.

28.0. ADDITIONAL DOCUMENTS.

Each party agrees to make, execute, and deliver any and all documents and to join in any application or action reasonably required to implement this Agreement.

29.0. NOTICES.

Any notice, demand, or request provided for in this Agreement shall be in writing, and shall be deemed properly served, given, or made if delivered in person or if sent by registered or certified mail, postage prepaid, to the person specified below:

If to BBID: Byron-Bethany Irrigation District
3944 Main Street
P.O. Box 273
Byron, CA 94514

If to Cowell: S. H. Cowell Foundation
120 Montgomery Street, Suite 2570
San Francisco, CA 94104

30.0. TERM.

This Agreement shall become effective on the date first above written and shall remain in effect in perpetuity should BBID's irrevocable offer be accepted by Cowell as provided in paragraph 10.0 herein.

31.0. SUCCESSORS AND ASSIGNS.

Each and every of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of BBID and Cowell. Upon S.H. Cowell Foundation's assignment or transfer of title to any portion of the land described in Exhibit "A" hereto which is hereafter annexed to BBID (including any transfer to a governmental or quasi-governmental entity, or to a park, open space, recreation or other similar district or entity), S.H. Cowell Foundation shall have the right, but not the obligation, to delegate its duties and obligations hereunder (including but not limited to its duty and obligation to indemnify and hold harmless BBID pursuant to the provisions of paragraphs 17.0 and 20.0 above) with respect to claims made, damages suffered, or events occurring, after the date of a transfer or assignment, to each transferee or assignee of a portion of the Cowell Ranch Property, and to cause such transferee or assignee to assume such duties and obligations, by an express written, recorded agreement or deed (the portion of such duties and obligations to be so assumed by such transferee or assignee proportionately, based upon the number of acres of the Cowell Ranch Property which are acquired by such transferee or assignee and are located within the boundaries of BBID compared to the total number of acres of the Cowell Ranch Property which are located within the boundaries of BBID), and S.H. Cowell Foundation shall be automatically relieved of and from such obligations to the extent they are so assumed by such transferee or assignee.

32.0. ARBITRATION.

32.1. Matters to be Arbitrated: Any dispute between the parties as to any right, alleged right, obligation or alleged obligation under this Agreement shall be resolved by arbitration in accordance with the provisions of this paragraph 32. Such arbitration shall be final and binding between the parties, and the order of the arbitrator may be enforced in the manner provided for enforcement of a judgment of a court of law pursuant to the applicable provisions of the California Code of Civil Procedure. The arbitration shall be conducted in accordance with the procedures set forth in paragraphs 34.2 through 34.7 below.

32.2. Claim and Demand: Either party that has a claim hereunder (an "Claim") to be resolved through arbitration shall state its Claim in writing. The party making the Claim shall be a Demanding Party for the purposes of this paragraph 32. The Claim shall include (i) the item or matter in dispute, (ii) the Demanding Party's position, and (iii) a specific statement of the exact relief the Demanding Party requests.

32.3. Obligation to Meet and Confer: The Demanding Party and the party against whom the Claim is made shall meet and confer in an attempt to resolve the matter raised by the Claim. If they are unable to reach a resolution within thirty (30) days after the date of the Claim, then within ten (10) days thereafter, the Demanding Party shall either (i) restate its Claim, (ii) amend the Claim, or (iii) withdraw the Claim. Failure on the part of the Demanding Party to withdraw or amend the Claim in writing shall constitute a restatement thereof.

32.4. Response to Claim: If the Claim is not withdrawn within the ten (10) day period provided for in paragraph 32.3 above, the party against whom the Claim is made (referred to as the Responding Party for purposes of this paragraph 32) shall, within fifteen (15) days after expiration of the ten (10) day period provided for in paragraph 32.3 above, prepare a Response to the Claim specifying specifically (i) the Responding Party's position on the Claim, and (ii) the exact relief the Responding Party requests.

32.5 Submission to Arbitrator: The matter or matters in dispute shall be submitted to a neutral arbitrator on the basis of the issues as framed by the Claim (as the same may have been amended pursuant to paragraph 32.3 above) and the Response. The arbitrator shall be a person with at least ten (10) years experience in Alameda, Contra Costa and/or San Joaquin Counties and professional qualifications in the subject matter in dispute under the Claim and Response (by way of example, the arbitrator would have to be a licensed civil engineer if the dispute concerns the design of the New Conveyance Facilities or a member in good standing of the State Bar of California if the dispute concerns the interpretation of this Agreement). The arbitrator shall be appointed by mutual agreement of the parties involved in the dispute. If such parties are unable to mutually agree on the selection of a single person to serve as arbitrator within a thirty (30) day period, then the arbitrator shall be appointed pursuant to California Code of Civil Procedure Section 1281.6. The arbitration proceeding shall be conducted in accordance with the provisions of California Code of Civil Procedure Section 1280 et seq. To the extent

possible, the arbitration hearing shall be conducted on consecutive days, excluding Saturdays, Sundays and legal holidays, until completion of the case.

32.6. Decision of Arbitrator. As soon as convenient after appointment, the arbitrator shall meet with the Demanding Party and the Responding Party to hear evidence and argument on the Claim and Response. The arbitrator shall not be bound by the rules of evidence in the conduct of such proceeding although the arbitrator shall take account of said rules in considering the weight of the evidence. To the extent applicable, the decision of the arbitrator shall conform to law. In making a decision, the sole function of the arbitrator shall be to determine whether (i) the relief requested in the Claim, or (ii) the relief requested in the Response is the more appropriate relief to be given in connection with the matter in dispute. The arbitrator shall have no right to amend the terms of this Agreement.

32.7. Costs: Unless the award of the arbitrator provides otherwise, each party shall pay one-half (1/2) of the fees and costs of the arbitrator.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.


"BBID"

BYRON-BETHANY IRRIGATION DISTRICT

Authorized and approved
for signature on
March 14, 1995:

Dated: March 14, 1995

By:


CHARLES SPATAFORE JR.,
Director and President

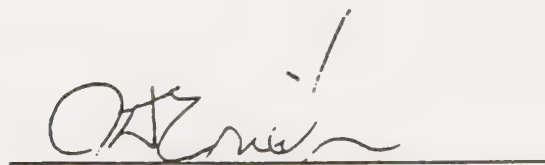
"COWELL"

S.H. COWELL FOUNDATION,
a California Non-Profit Public Benefit Corporation
and Private Foundation

Authorized and approved
for signature on
March 14, 1995:

Dated: March 14, 1995

By:


J. D. ERICKSON,
President

NO I A R Y A C K N O W L E D G E M E N T

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

On this 14th day of March 1995, before me, the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Charles Spatafore, Jr., known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me all that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Barbara De Borja
Barbara De Borja



STATE OF CALIFORNIA

)

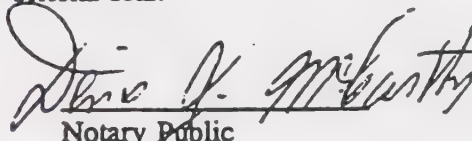
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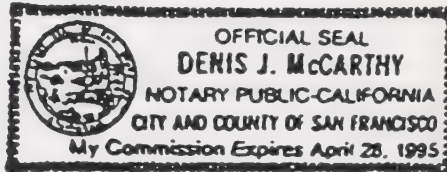
COUNTY OF SAN FRANCISCO

)

On MARCH 20, 1995, before me DENIS J. MCCARTHY, a Notary Public of the State of California, personally appeared J. D. Erickson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity on behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Notary Public



SCHEDULE OF EXHIBITS

Exhibit "A": Legal Description of the Land of S.H. Cowell Foundation

EXHIBIT A

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA, CITY OF UNINCORPORATED, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PORTION OF THE RANCHO LOS MEGANOS, FILED JANUARY 9, 1913, IN BOOK 9 OF MAPS, PAGE 202, BEING ALL OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 2 EAST, AND SECTION 2, TOWNSHIP 1 SOUTH, RANGE 2 EAST, AND PORTION OF SECTIONS 22, 23, 26, 27, 35 AND 36 IN SAID TOWNSHIP 1 NORTH, RANGE 2 EAST, AND SECTION 1, TOWNSHIP 1 SOUTH, RANGE 2 EAST, ALL BEING EXTENDED SECTIONS IN MOUNT DIABLO BASE AND MERIDIAN; PORTION OF SUBDIVISION NO. 10 BRENTWOOD IRRIGATED FARMS, FILED SEPTEMBER 11, 1917, IN BOOK 16 OF MAPS, PAGE 331; AND ALL OF LOT 268, AS SHOWN ON THE AMENDED MAP OF SUBDIVISION NO. 8, BRENTWOOD IRRIGATED FARMS, FILED AUGUST 4, 1920, IN BOOK 17 OF MAPS, PAGE 375, ALL IN THE COUNTY OF CONTRA COSTA. THE WHOLE THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT A GRANITE POST MARKED L.M. NO. 1 BEING THE COMMENCEMENT POINT OF THE OFFICIAL SURVEY OF THE RANCHO LOS MEGANOS AS DESCRIBED IN PATENT OF CONFIRMATION ISSUED BY THE UNITED STATES OF AMERICA TO ALICE MARCH, DATED AUGUST 19, 1867, AND RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF CONTRA COSTA, IN BOOK 4 OF PATENTS, PAGE 371, SAID GRANITE POST BEING SITUATED AT THE SOUTHEAST CORNER OF THAT PORTION OF SAID RANCHO, KNOWN AS SECTION 34, TOWNSHIP 1 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN AND RUNNING THENCE ALONG THE EXTERIOR BOUNDARY OF SAID RANCHO, SOUTH 89°48-1/2' WEST, 5256.8 FEET TO A GRANITE POST MARKED L.M. NO. 2, SAID GRANITE POST BEING A MONUMENT OF SAID OFFICIAL SURVEY AND BEING SITUATED AT THE SOUTHWEST CORNER OF SAID PORTION OF SAID RANCHO KNOWN AS SAID SECTION 34; THENCE CONTINUING ALONG THE EXTERIOR BOUNDARY OF SAID RANCHO NORTH 0°13' WEST TO THE POINT OF INTERSECTION OF SAID EXTERIOR BOUNDARY AND THE SOUTHERLY LINE OF ROAD NO. 15; THENCE LEAVING SAID EXTERIOR BOUNDARY AND RUNNING IN A NORTHEASTERLY, SOUTHEASTERLY AND EASTERLY DIRECTION ALONG THE SOUTHERLY LINE OF SAID ROAD NO. 15, AND ALONG THE SOUTHERLY LINE OF ROAD NO. 20 TO THE POINT OF INTERSECTION OF SAID SOUTHERLY LINE OF ROAD NO. 20 AND THE CENTER LINE OF MARSH CREEK, SAID POINT BEING THE NORTHEASTERLY CORNER OF LOT 268, SUBDIVISION 8, BRENTWOOD IRRIGATED FARMS AMENDED; THENCE ALONG THE EASTERLY BOUNDARY OF SAID LOT 268 OF SUBDIVISION 8 BRENTWOOD IRRIGATED FARMS AMENDED, SOUTH 20°19' WEST 456.2 FEET; SOUTH 86°06' WEST 321 FEET; SOUTH 36°58' WEST 273.9 FEET; SOUTH 40°36-1/2' EAST 550.3 FEET; SOUTH 15°34' EAST 662.4 FEET; SOUTH 19°31' WEST 460.6 FEET; AND SOUTH 18°0' WEST 512.3 FEET TO THE SOUTHWESTERLY CORNER OF LOT 91 OF SUBDIVISION NO. 2 OF BRENTWOOD IRRIGATED FARMS, AS DESIGNATED ON THE MAP THEREOF RECORDED DECEMBER 30, 1913, IN BOOK 11, OF MAPS, PAGE 251, IN THE COUNTY RECORDER'S OFFICE OF THE COUNTY OF CONTRA COSTA; THENCE LEAVING SAID EASTERLY BOUNDARY AND RUNNING ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 91, NORTH 89°41-1/2' EAST, 231.3 FEET TO WESTERLY LINE OF ROAD NO. 17, SOMETIMES CALLED

WALNUT BOULEVARD; THENCE IN A SOUTHWESTERLY DIRECTION ALONG SAID WESTERLY LINE OF ROAD NO. 17 TO THE POINT OF INTERSECTION OF SAID WESTERLY LINE AND THE CENTER LINE OF MAIN LATERAL NO. 7, SOUTH OF THE EAST CONTRA COSTA IRRIGATION COMPANY, AS SAID LATERAL IS SHOWN ON MAP OF SUBDIVISION NO. 10 OF BRENTWOOD IRRIGATED FARMS; THENCE LEAVING SAID WESTERLY LINE OF ROAD NO. 17 AND RUNNING ALONG THE CENTER LINE OF SAID MAIN LATERAL NO. 7, SOUTH AND ALONG THE WESTERLY BOUNDARY OF THE PROPERTY DESCRIBED IN THE DEED FROM SAN JOAQUIN FARMING COMPANY, INC., TO ROBERT S. SWIFT AND BEATRICE M. SWIFT, HIS WIFE, DATED OCTOBER 13, 1920 RECORDED OCTOBER 23, 1920, IN BOOK 370 OF DEEDS, PAGE 239, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, SOUTH 53°42' EAST, 81.9 FEET, MORE OR LESS, TO A POINT DISTANT SOUTH 53°42' EAST, 31.9 FEET FROM THE EASTERLY LINE OF SAID ROAD NO. 17; SOUTH 0°45' WEST 256.7 FEET AND SOUTH 17°22' EAST 647.9 FEET; THENCE BEYOND SAID LATERAL BUT CONTINUING ALONG THE WESTERLY BOUNDARY OF THE PROPERTY DESCRIBED IN THE LAST ABOVEMENTIONED DEED, SOUTH 6°10' EAST, 260.8 FEET TO THE POINT OF INTERSECTION OF SAID CENTER LINE AND THE APPROXIMATE CENTER OF DRY CREEK; THENCE ALONG THE APPROXIMATE CENTER OF DRY CREEK AND THE SOUTHERLY BOUNDARY OF THE PROPERTY DESCRIBED IN THE LAST ABOVEMENTIONED DEED, NORTH 51°20' EAST, 350.6 FEET, AND SOUTH 61°0' EAST, 375 FEET; LEAVING SAID SOUTHERLY BOUNDARY BUT CONTINUING ALONG THE APPROXIMATE CENTER OF DRY CREEK, SOUTH 61°0' EAST, 89.5 FEET, NORTH 71°0' EAST, 390.4 FEET; SOUTH 88°30' EAST, 506.7 FEET AND NORTH 82°20' EAST, 128.3 FEET; THENCE LEAVING THE APPROXIMATE CENTER OF DRY CREEK AND RUNNING NORTH 0°8' EAST, 1498.6 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID ROAD NO. 14; THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTHERLY LINE OF SAID ROAD NO. 14, TO THE POINT OF INTERSECTION OF SAID SOUTHERLY LINE AND THE WESTERLY LINE OF ROAD NO. 5; THENCE IN A SOUTHERLY DIRECTION ALONG THE WESTERLY LINE OF ROAD NO. 5 TO THE POINT OF INTERSECTION OF SAID WESTERLY LINE AND THE NORTHERLY LINE OF ROAD NO. 16; THENCE IN A WESTERLY DIRECTION ALONG THE NORTHERLY LINE OF ROAD NO. 16 TO THE POINT OF INTERSECTION OF SAID NORTHERLY LINE OF ROAD NO. 16, WITH THE WESTERLY LINE EXTENDED NORTHERLY OF ROAD NO. 19; THENCE IN A SOUTHERLY DIRECTION, ALONG THE WESTERLY LINE OF ROAD NO. 19; EXTENDED NORTHERLY AND THE WESTERLY LINE OF ROAD NO. 19 TO THE POINT OF INTERSECTION OF THE WESTERLY LINE OF ROAD NO. 19 AND THE EXTERIOR BOUNDARY OF SAID RANCHO; THENCE SOUTH 89°40' WEST, ALONG THE EXTERIOR BOUNDARY OF SAID RANCHO TO A GRANITE POST MARKED L.M. NO. 12, SAID GRANITE POST BEING A MONUMENT OF SAID OFFICIAL SURVEY AND BEING SITUATED AT THE SOUTHWEST CORNER OF THAT PORTION OF SAID RANCHO KNOWN AS SECTION 2, TOWNSHIP 1 SOUTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN; THENCE CONTINUING ALONG SAID EXTERIOR BOUNDARY OF SAID RANCHO, NORTH 0°3' WEST, 5300.5 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL ONE:

1. THE INTEREST CONVEYED TO THE COUNTY OF CONTRA COSTA BY DEED FROM COWELL PORTLAND CEMENT COMPANY BY DEED DATED NOVEMBER 19, 1936, AND RECORDED DECEMBER 28, 1936 IN BOOK 424 OF OFFICIAL

RECORDS, PAGE 244.

2. THE INTEREST CONVEYED TO THE COUNTY OF CONTRA COSTA BY DEED FROM COWELL PORTLAND CEMENT COMPANY, DATED OCTOBER 20, 1939, AND RECORDED NOVEMBER 4, 1939 IN BOOK 528 OF OFFICIAL RECORDS, PAGE 184.

3. THE 3.02 ACRE PARCEL DESCRIBED IN THE DEED FROM HENRY COWELL LIME AND CEMENT CO., TO PACIFIC GAS AND ELECTRIC COMPANY, DATED DECEMBER 6, 1949 AND RECORDED APRIL 4, 1950, IN BOOK 1532 OF OFFICIAL RECORDS, PAGE 435.

4. THE PARCEL OF LAND DESCRIBED IN THE DEED FROM HENRY COWELL LIME AND CEMENT CO., TO HELMUT PINKWART, DATED DECEMBER 1, 1954, IN BOOK 2434 OF OFFICIAL RECORDS, PAGE 279.

5. THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE COUNTY OF CONTRA COSTA, RECORDED AUGUST 1, 1956, BOOK 2817, PAGE 596.

6. THE PARCEL OF LAND DESCRIBED IN THE DEED TO CONTRA COSTA COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, DATED OCTOBER 31, 1958, AND RECORDED NOVEMBER 17, 1958 IN BOOK 3265 AT PAGE 158.

7. THE PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION, DATED APRIL 8, 1959, AND RECORDED APRIL 17, 1959 IN BOOK 3357 AT PAGE 289.

8. THE PARCEL OF LAND DESCRIBED IN THE DEED TO CONTRA COSTA COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, DATED APRIL 28, 1960 AND RECORDED MAY 17, 1960 IN BOOK 3621 AT PAGE 181.

9. THE PARCELS OF LAND DESCRIBED IN THE DEEDS TO CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A POLITICAL SUBDIVISION, DATED SEPTEMBER 24, 1963, AND RECORDED JANUARY 31, 1964 IN BOOK 4544 AT PAGE 616 AND BOOK 4544 AT PAGE 648.

10. THE PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION, DATED JANUARY 18, 1968 AND RECORDED FEBRUARY 7, 1968 IN BOOK 5553 AT PAGE 14.

11. THE PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION, RECORDED FEBRUARY 13, 1974, IN BOOK 7154 AT PAGE 939.

12. THE PARCEL OF LAND DESCRIBED IN THE DEED TO LEONARD GERRY, ET AL, RECORDED JANUARY 15, 1980, BOOK 9696, PAGE 33.

13. THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA RECORDED FEBRUARY 26, 1981, BOOK 10216, OFFICIAL RECORDS, PAGE 41.

14. THAT CERTAIN PARCEL OF LAND SITUATE IN RANCHO LOS MEGANOS, BEING A PORTION OF THE LANDS OF THE COWELL FOUNDATION AS THE SAME ARE DESCRIBED IN THE DEED RECORDED FEB. 24, 1940 IN BOOK 537 OF OFFICIAL RECORDS, AT PAGE 214 IN THE OFFICE OF THE CONTRA COSTA COUNTY RECORDER, AND AS SHOWN ON THE MAP ENTITLED "MAP OF PORTION OF RANCHO LOS MEGANOS CONTRA COSTA COUNTY, CALIF. MADE FOR HENRY COWELL LIME & CEMENT CO." FILED AS MAP G324 IN THE CONTRA COSTA COUNTY'S PUBLIC WORKS DEPARTMENT RECORDS SECTION AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE GRANITE MONUMENT "L.M. NO. 12" AS THE SAME IS SHOWN ON SAID MAP (G324) LYING ON THE SOUTHERLY BOUNDARY OF RANCHO LOS MEGANOS AND BEING THE SOUTHWEST CORNER OF THE PARCEL HEREIN DESCRIBED;

THENCE, ALONG THE WESTERLY LINE OF SAID RANCHO N00°03'20"W 1,162.08 FEET TO THE NORTHWEST CORNER OF THE PARCEL HEREIN DESCRIBED AND THE SOUTHERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD (50' WIDE);

THENCE, DEPARTING SAID WESTERLY LINE OF SAID RANCHO ALONG THE SOUTHERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD N59°19'30"E 1,788.94 FEET;

THENCE, N88°04'00"E 161.27 FEET;

THENCE, N64°20'00"E 1,050.73 FEET;

THENCE, N62°35'30"E 615.25 FEET TO THE NORTHEAST CORNER OF THE PARCEL HEREIN DESCRIBED;

THENCE, DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE S12°42'26"W 531.52 FEET;

THENCE, S74°41'51"W 393.33 FEET;

THENCE, S01°29'07"W 737.47 FEET;

THENCE, N73°55'35"W 256.53 FEET;

THENCE, S07°25'53"W 231.95 FEET;

THENCE, S49°17'21"W 1,418.19 FEET;

THENCE, S03°48'51"W 368.24 FEET TO THE SOUTHERLY BOUNDARY OF SAID RANCHO AND THE SOUTHEAST CORNER OF THE PARCEL HEREIN DESCRIBED;

THENCE, S89°39'58"W 1,300.53 FEET TO THE POINT OF BEGINNING, CONTAINING 91.004 ACRES MORE OR LESS.

NOTE: THE BEARING BASE FOR THIS DESCRIPTION IS THE MAP ENTITLED "MAP OF PORTION OF RANCHO LOS MEGANOS CONTRA COSTA COUNTY, CALIF. MADE FOR HENRY COWELL LIME & CEMENT CO." FILED AS MAP G324 IN THE CONTRA COSTA COUNTY'S PUBLIC WORKS DEPARTMENT RECORDS SECTION.

THAT CERTAIN PARCEL OF LAND SITUATE IN RANCHO LOS MEGANOS, BEING A PORTION OF THE LANDS OF THE COWELL FOUNDATION AS THE SAME ARE DESCRIBED IN THE DEED RECORDED FEB. 24, 1940 IN BOOK 537 OF OFFICIAL RECORDS, AT PAGE 214 IN THE OFFICE OF THE CONTRA COSTA COUNTY RECORDER, AND AS SHOWN ON THE MAP ENTITLED "MAP OF PORTION OF RANCHO LOS MEGANOS CONTRA COSTA COUNTY, CALIF. MADE FOR HENRY COWELL LIME & CEMENT CO." FILED AS MAP G324 IN THE CONTRA COSTA COUNTY'S PUBLIC WORKS DEPARTMENT RECORDS SECTION AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE GRANITE MONUMENT "L.M. NO. 12" AS THE SAME IS SHOWN ON SAID MAP (G324) LYING ON THE SOUTHERLY BOUNDARY OF RANCHO LOS MEGANOS THENCE, ALONG SAID SOUTHERLY BOUNDARY N89°39'58"E 1,533.26 FEET TO THE TRUE POINT OF BEGINNING:

THENCE, DEPARTING SAID SOUTHERLY BOUNDARY N35°45'14"E 525.01 FEET;

THENCE, N82°42'01"E 1,219.89 FEET;

THENCE, N26°05'44"E 545.62 FEET;

THENCE, N85°51'19"E 1,383.62 FEET;

THENCE, N24°26'38"W 724.98 FEET;

THENCE, N30°34'45"E 255.54 FEET;

THENCE, N51°04'51"E 413.86 FEET;

THENCE, N34°14'35"E 689.52 FEET;

THENCE, N63°26'06"E 782.62 FEET;

THENCE, S77°28'16"E 460.98 FEET;

THENCE, S57°11'19"E 1,808.54 FEET;

THENCE, N87°38'19"E 1,902.62 FEET TO THE WESTERLY RIGHT OF WAY LINE OF VASCO ROAD (50' WIDE) AND THE NORTHEAST CORNER OF THE PARCEL HEREIN DESCRIBED;

THENCE, ALONG SAID WESTERLY RIGHT OF WAY LINE S10°48'30"W 539.81 FEET;

THENCE, S01°51'30"W 849.72 FEET;

THENCE, S12°29'30"E 821.04 FEET TO THE SOUTHERLY BOUNDARY LINE OF SAID RANCHO;

THENCE, ALONG SAID SOUTHERLY BOUNDARY LINE S89°39'58"W 8,296.72 FEET TO THE POINT OF BEGINNING, CONTAINING 351.829 ACRES MORE OR LESS.

NOTE: THE BEARING BASE FOR THIS DESCRIPTION IS THE MAP ENTITLED "MAP OF PORTION OF RANCHO LOS MEGANOS CONTRA COSTA COUNTY, CALIF. MADE FOR HENRY COWELL LIME & CEMENT CO." FILED AS MAP G324 IN THE CONTRA COSTA COUNTY'S PUBLIC WORKS DEPARTMENT RECORDS SECTION.

PARCEL TWO:

PORTION OF THE SOUTHEAST 1/4 OF SECTION 3, TOWNSHIP 1 SOUTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF THE RANCHO LOS MEGANOS, FROM WHICH POINT A GRANITE MONUMENT DESIGNATED "L.M. NO. 1" BEARS NORTH 0°03'20" WEST, 2675.74 FEET; THENCE LEAVING SAID WESTERLY LINE AND RUNNING ALONG THE SOUTHERLY LINE OF THE LANDS NOW OR FORMERLY OF THE COWELL PORTLAND CEMENT COMPANY, NORTH 86°30'20" WEST, A DISTANCE OF 2650.77 FEET TO A POINT; THENCE SOUTH 0°36'55" WEST A DISTANCE OF 1518.77 FEET TO A POINT ON THE NORTHERLY LINE OF THE MARSH CREEK ROAD; THENCE RUNNING ALONG SAID LINE, NORTH 88°47' EAST, A DISTANCE OF 1117.94 FEET TO A POINT; THENCE SOUTH 89°48' EAST, A DISTANCE OF 171.64 FEET TO A POINT; THENCE SOUTH 79°37'30" EAST, A DISTANCE OF 196.83 FEET TO A POINT; THENCE SOUTH 66°18'30" EAST, A DISTANCE OF 246.30 FEET TO A POINT; THENCE SOUTH 72°37'30" EAST, A DISTANCE OF 69.09 FEET TO A POINT; THENCE SOUTH 76°33'30" EAST, A DISTANCE OF 84.11 FEET TO A POINT; THENCE SOUTH 85°38'30" EAST, A DISTANCE OF 86.73 FEET; THENCE NORTH 81°42'30" EAST, A DISTANCE OF 728.44 FEET TO A POINT ON THE WESTERLY LINE OF THE RANCHO LOS MEGANOS; THENCE LEAVING THE NORTHERLY LINE OF THE MARSH CREEK ROAD AND RUNNING ALONG THE WESTERLY LINE OF THE RANCHO LOS MEGANOS 0°03'20" WEST, A DISTANCE OF 1410.11 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

THE NORTH 1/2 AND THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 1 SOUTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 3, WHICH IS MARKED BY A SYCAMORE TREE AND RUNNING THENCE NORTH 1°24' EAST, 2614.44 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 3; THENCE RUNNING NORTH 1°17'10" EAST, 2531.50 FEET TO THE NORTHWEST CORNER OF SAID SECTION 3 WHICH IS MARKED BY GRANITE MONUMENT L.M. 2; THENCE RUNNING NORTH 89°48'35" EAST, 5258.64 FEET TO THE NORTHEAST CORNER OF SAID SECTION 3 MARKED BY GRANITE MONUMENT L.M. 1; THENCE RUNNING SOUTH 0°03'20" EAST 2675.74 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 3, MARKED BY A 2 BY 3 STAKE; THENCE RUNNING NORTH 86°30'20" WEST, ALONG LINE BETWEEN NORTHEAST AND SOUTHEAST QUARTER OF SAID SECTION, A DISTANCE OF 2650.77 FEET TO A POINT AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 3 MARKED BY A 2 BY 2 REDWOOD HUB IN FENCE CORNER; THENCE RUNNING SOUTH 0°36'55" WEST, ALONG WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, 2621.46 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 3 MARKED BY A REDWOOD HUB AND MARKER; THENCE RUNNING SOUTH 89°26'25" WEST, 2707.56 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM:

THE INTEREST CONVEYED TO COUNTY OF CONTRA COSTA, A POLITICAL SUBDIVISION, BY COWELL PORTLAND CEMENT CO., A CALIFORNIA

CORPORATION, FOR USE AS A PUBLIC HIGHWAY, BY DEED DATED AUGUST 2, 1933, RECORDED SEPTEMBER 8, 1933, IN BOOK 295 OF OFFICIAL RECORDS, PAGE 303.

PARCEL FOUR:

SECTION 33, TOWNSHIP 1 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN.

EXCEPTING FROM SAID PARCEL FOUR:

THE INTEREST CONVEYED TO THE COUNTY OF CONTRA COSTA BY DEEDS FROM J.P. MCCABE, DATED OCTOBER 8, 1892, AND RECORDED NOVEMBER 18, 1892, IN BOOK 63 OF DEEDS, PAGE 212; AND DATED AUGUST 12, 1896, AND RECORDED AUGUST 12, 1896, IN BOOK 73 OF DEEDS PAGE 210, AND BY DEED FROM COWELL PORTLAND CEMENT COMPANY, DATED NOVEMBER 19, 1936, AND RECORDED DECEMBER 28, 1936, IN BOOK 428 OF OFFICIAL RECORDS, PAGE 110.

PARCEL FIVE:

RIGHT OF WAY, AS AN APPURTENANCE TO PARCELS ONE THROUGH THREE ABOVE, AS RESERVED IN THE DEED TO LEONARD GERRY, ET AL, RECORDED JANUARY 15, 1980, BOOK 9696, PAGE 33, OFFICIAL RECORDS, AS FOLLOWS:

"A NON-EXCLUSIVE EASEMENT 20 FEET IN WIDTH FOR THE INSTALLATION AND MAINTENANCE OF AN IRRIGATION PIPE LINE. THE WESTERLY LINE OF SAID EASEMENT TO BE DISTANT 20 FEET WESTERLY AT RIGHT ANGLES FROM THE WESTERN LINE OF WALNUT BOULEVARD, AS SAID BOULEVARD NOW EXISTS."

ASSESSOR'S PARCEL NUMBER: MULTIPLE

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1-4-97

RE: COWELL RANCH PROJECT

WE BELIEVE THE COWELL RANCH PROJECT IS MUCH TOO LARGE AND WOULD IMPACT THE AREA NEGATIVELY. MUCH OF THE LAND WITHIN THE PROJECT IS PRIME AGRICULTURAL LAND THAT SHOULD REMAIN IN AGRICULTURE. THE ROADS IN THE AREA CANNOT HANDLE MORE TRAFFIC.

IF ANY OF THE PROJECT IS APPROVED IT SHOULD BE THE EMPLOYMENT BASE. CONSIDER HOUSING LATER, AND ONLY CORRESPONDING TO THE NUMBER OF JOBS CREATED.

45.01

SINCERELY,

Dave Stoeffler

DAVE STOEFFLER

PO BOX 274

KNIGHTSEN, CA 94548

Karen A. Hunt
200 D Park Lake Circle
Walnut Creek, CA 94598

97 JAN -8 PM 3:44

DEVELOPMENT DEPT

January 5, 1997

Contra Costa County Community
Development Department
651 Pine Street
North Wing, Fourth Floor
Martinez, CA 94553

Dear Department Representatives:

I have the following comments for your review regarding the draft Environmental Impact Report for the proposed Cowell Ranch project in Brentwood:

- How valid are the draft EIR's assumptions that Cowell Ranch will be able to attract new jobs, considering that nearby Pittsburgh and Antioch have continually struggled to strengthen the jobs base in their communities? The draft EIR assumes that a business park within the development will minimize the traffic congestion created by the development.
- What assurance is there that if jobs are created, they will be filled by residents of Cowell Ranch? Employers within Cowell Ranch will not discriminate in favor of individuals residing within Cowell Ranch. Instead, they will attempt to hire the most attractive candidates from the large East Bay area employment pool. Even if jobs are originally filled by Cowell Ranch residents, this will generally be a short-term situation. Employees don't normally stay in the same job their entire career; instead, these employees will probably switch jobs and end up commuting after a period of time. Has the draft EIR adequately addressed the traffic impact on the already congested corridors if non-residents work in Cowell Ranch and residents must commute out of Cowell Ranch?
- Has the draft EIR addressed the economic viability of the project? Can the project be developed the way the draft EIR is written? How do we ensure that the integrity of the project doesn't change? The yet-to-be-determined developers may decide that the project is not economically feasible, and the result may be a reduction in open space. I am concerned that the County will allow a variance on the EIR at this stage, rather than require Cowell Ranch to go back to the drawing board.
- What will be the true impact on the East County's agricultural core and on neighboring farm lands due to the additional infrastructure requirements for the Cowell Ranch projects? Most of the sewer and gas lines will have to go through existing farms. Increased traffic on local roads will invariably damage the farmers' ability to access their fields. Residents will complain about tractors on the roads,

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smells coming from the farms, etc., and ultimately hamper the operations of the farms.

- The Cowell Ranch project is not contiguous to the existing urban areas of Brentwood. If the Cowell Ranch project is developed prior to approved development between it and Brentwood, it will be an island of urbanization within a farming community. Although the land between Cowell Ranch and Brentwood has been approved for development, the development has not taken place and perhaps never will. The development of Cowell Ranch could ultimately doom the fate of this still agricultural land by hindering the operations of these farms.
- What is the justification of removing approximately 1,270 acres of land designated as agricultural by the Contra Costa General Plan? The current plan is already overly generous regarding land available for development, why adjust it to further limit agricultural land? If an adjustment to the Plan's Urban Limit Line is approved, this will set precedence for other property owners' requests.
- Why shouldn't the property be sold as agricultural land or be part of a land swap with land close to an urban area?
- Why should the County continue to waste tax dollars in reviewing new projects, such as Cowell Ranch, when there is an overabundance of approved but not built units? The unbuilt projects are closer to the current urban core and infrastructure. By locking up current agricultural land for eventual development, we are pre-determining the fate of the country's prime agricultural land. Over 350 acres of Soil Conservation Service-designated prime soils would be lost if Cowell Ranch is developed. Other communities have learned from the mistakes of previous over-development (e.g., San Jose's and Santa Rosa's approval of urban limit lines). Contra Costa's citizens may also ultimately decide against the complete urbanization its lands. We are the recipients of wonderfully fresh produce grown in our backyard. The swelling population of the County will need to be fed; therefore we should be designating more, not less, land as agricultural while we continue to seek ways to control population growth and effectively utilize the current urban space.
- What is the value of the County's "less-damaging" counter-proposal of 16 ranchettes? Cutting up farm land into ranchettes damages the agricultural core since the owners will generally be gentlemen farmers who are not actively and efficiently utilizing the existing land. It is also damaging to the environment since it reduces the range that threatened wildlife have without human and domestic animal contact.

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I thank you for the opportunity to respond to the draft EIR and look forward to reading your responses.

Sincerely,

Karen A. Hunt

cc. Tom Mooers, Greenbelt Alliance



97 JAN -8 AM 9:17

P.O. Box 280 • Clayton, California 94517

RECEIVED DEPT

Telephones:

City Hall (510) 672-3622

Community

Development (510) 672-6690

Engineering (510) 672-9700

City Council:

Gregory J. Manning, Mayor

Richard A. Littorno, Vice Mayor

Peter A. Laurence

Phyllis L. Peterson

Julie K. Pierce

January 6, 1997

James Cutler, Assistant Director of Comprehensive Planning
Contra Costa County Community Development Department
651 Pine Street, 4th Floor, North Wing
Martinez, CA 94553

SUBJECT: DEIR - COWELL RANCH GENERAL PLAN AMENDMENT, REZONING,
AND RELATED ENTITLEMENTS - SCH #93013024.

Dear Mr. Cutler,

Thank you for sending me a copy of the Draft Environmental Impact Report (DEIR) for the proposed Cowell Ranch General Plan Amendment, Rezoning and related entitlements. The City of Clayton's concerns regarding this proposal primarily revolve around the topic of regional transportation. My comments are grouped into general categories: trip distribution and jobs - housing balance; and various specific transportation comments.

TRIP DISTRIBUTION, JOBS - HOUSING BALANCE

On page IV.C.46 & 47, the AM peak hour trip distribution is given for years 2010 and 2026. I note with concern that all of Contra Costa County, save East County, is assigned only a 3.3% trip distribution in year 2010 and 3.9% distribution in year 2026. This level of distribution is roughly equal to that assigned to San Joaquin County. Given the substantial employment, entertainment and shopping resources within Central County, this low assignment makes little sense to me. Central County's attractions are far closer to Cowell Ranch than similar attractions in San Joaquin County, yet they are treated roughly equal. One possible explanation for the low trip distribution projected to the rest of Contra Costa County is because trips internal to Cowell Ranch and nearby Brentwood are shown to be over 50% for both years 2010 and 2026. I believe this high local distribution to be extremely unrealistic. This unrealistic distribution seriously impacts the analyzed regional transportation effects of this proposal and needs to be significantly reduced.

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I acknowledge that the DEIR has identified as impact LU-11 the jobs - housing balance issue and

47.02

an aggressive mitigation program is proposed. These mitigation measures seek to achieve a numeric jobs - housing balance for the project. However, academic research questions whether jobs - housing balance is an effective tool for reducing transportation and air quality effects. Reasons why achieving numeric jobs - housing balance are not particularly beneficial are as follows: workers in two-earner households usually work in different locations; frequent job turnover reduces the ability to relocate in reference to one's workplace; the affordability of housing with reference to the income generated by the job; and factors relating to issues other than the job such as quality of schools, shopping, and entertainment resources. Recent academic studies (Robert Cervero, APA Journal, autumn 1996) indicate that the important measure is not balance per se but self- containment. Self-containment is defined as a community that allows people to live, work, shop and recreate within that community. Achieving comparable counts of jobs and housing units does little to achieve a self-contained project. I see little in the mitigation program for impact LU-11 that insures that the jobs produced by the Cowell Ranch project will be filled by new residents of the Cowell Ranch project. I acknowledge that a local employment advertising program is proposed as a mitigation measure, but this provides little guarantee that self- containment will be achieved. Due to the minimal benefit of simple jobs - housing balance ratios, the high percentage of peak hour trips internal to the project and the adjacent city of Brentwood (as referred to above) is unrealistic and should be significantly reduced. The reduction of this local trip distribution would result in increasing the distribution to other areas of the County (beyond East County), particularly Central County.

47.02

When the trip distribution numbers are corrected to more realistically reflect the likely outcome of this project, the volumes on Marsh Creek Road west of Deer Valley Road will be increased accordingly. Tables 26 & 27 currently show unrealistically low increases in the peak hour traffic on Marsh Creek Road west of Deer Valley Road. In addition to a faulty trip distribution, I believe this unrealistically low increase is an inherent flaw of the model used in this DEIR. I understand that the proportionately low volumes currently on Marsh Creek Road west of Deer Valley Road are considered insignificant by the model. I believe the model is incapable of accurately predicting an increase in a road with such low current volumes. I feel that it is necessary to manually adjust the model to generate the traffic increase on Marsh Creek Road west of Deer Valley Road to reflect the likely outcome of this project. I simply do not believe the model's prediction that only 48 additional AM peak hour trips would be generated by the 1,864 residential units and 5,485 jobs resulting from phase one of this project. This project is directly on Marsh Creek Road, and Marsh Creek Road is the most direct access to the job-rich areas of Central County. A realistic projection of increases along this road is needed.

47.03

The Final EIR needs to adjust the mitigation for LU-11 to include this concept of self- containment in lieu of simple numeric jobs - housing balance. I would suggest that the required annual reporting not be limited to merely numbers of on-site jobs and on-site employed residents, but be expanded to include the numbers of residents employed on-site and the residential locations of on-site employees. I would suggest that specific numerical targets be

47.04

developed for the number of residents with jobs on-site or within the Brentwood area as well as on-site employees who live in the project or the Brentwood area.

47.04

Concerning this concept of self-containment, is it reasonable to assume the substantial job growth projected by this DEIR given the lack of transportation access and the general isolation of this project vis-a-vis other competing business centers? Also, given the high demand for employment uses, how does this project compare vis-a-vis the city of Brentwood's efforts to attract jobs? Does the DEIR assume the Cowell Ranch project will capture most of the new jobs in the Brentwood area or does the DEIR assume such a high level of new job creation that both the project and the City of Brentwood will be successful in capturing new jobs? In a related topic, the cumulative analysis should not only consider cumulative traffic impacts, but the cumulative market feasibility and the absorption likelihood for this project's housing units and job development given the substantial number of both housing projects and job creation efforts going on within other areas of East County and the larger region.

47.05

47.06

SPECIFIC TRANSPORTATION COMMENTS

First, allow me to compliment the DEIR for including an analysis of the project's impact on four (4) regional intersections outside of the immediate area. Once the corrections are made to the trip distribution, as noted above, I believe an analysis of these four intersections will show more significant impacts of this project. While the DEIR analyzes these four intersections, specific mitigations for the resulting impacts are not identified, a listing of such mitigations is needed. Also, it appears that the East County model does not agree with the County-wide model in regards to the projected VC and LOS levels for these four intersections. The County-wide model shows these intersections at a LOS of D at 2010 without the project, not E, as this DEIR shows. This discrepancy needs to be evaluated, the results adjusted accordingly, and appropriate mitigation identified for this project's impact on LOS.

47.07

47.08

Mitigation programs for this project state that fair share funding for roadway links and intersections improvements will be the responsibility of this project. Is this project's share sufficient to bring these roadway links and intersection improvements on-line? If not, who pays for the additional cost beyond this project's fair share and when will these improvements be in place to mitigate the project's impacts? Without this being answered, the mitigations may not financially be able to be provided and therefore, cannot be considered as having been provided for the purposes of this EIR.

47.09

I understand that this DEIR is a master EIR and detailed specific mitigations are left for future project approvals. However, this document should conceptually include mitigation measures to address all the regional transportation effects caused by this project. I suggest that such mitigation measures link the issuing of building permits for the project to the completion of key roadway links and intersection improvements, and to achieving specific self-containment goals. The City of Clayton respectfully requests that at the time subsequent project approvals are

47.10

considered and specific mitigation measures are proposed, that Clayton receive notice and copies of the proposed specific mitigations which deal with regional transportation effects to Clayton and Central Contra Costa County.

47.10

I note that the accident information contained in the DEIR is shown in absolute numbers (Figure 30). This figure shows a number of locations where accidents have occurred along Marsh Creek Road west of Deer Valley Road. The DEIR does not identify Marsh Creek Road as a safety concern. I believe this is because of the method by which the accidents are reported. If accidents are presented as a percentage of the volume on the road, this would more accurately identify relative "hot spots" for accidents. I suggest this analysis be included in the FEIR and that this analysis be factored into the mitigations proposed for the project. I also note that on Page IV.C.13 it states that the pavement condition of Marsh Creek Road is excellent from the Clayton city limits to Walnut Blvd. Being quite familiar with this segment of the roadway, I seriously question the designation of "excellent" for the pavement condition. I request this be reevaluated by site visit, if necessary, to accurately reflect conditions.

47.11

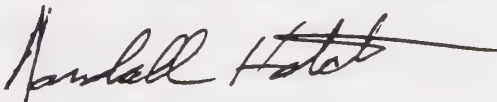
47.12

I am under the impression that the County model has projected growth and transportation only to the year 2010. This EIR goes beyond 2010 to 2026. Does this DEIR recognize continued growth in population, housing units and trips for impacted areas beyond year 2010 to the year 2026? If so, what is the source of the data to year 2026.

47.13

Thank you for the opportunity to review and comment on this Draft EIR and your consideration of the points made. I request that I continue to receive any and all documents available regarding this project (e.g., Response to Comments, Final EIR). If you have any questions or need additional information or clarification, please call me at 510/ 672-6690.

Sincerely,



Randall Hatch
Community Development Director

RH/lc

cc: Clayton Planning Commission
Clayton City Council
TRANSPAC



January 7, 1997

97 JAN -8 PM 3:44

DISCOVERY BAY

Walter MacVittie
Chair
1466 Marlin Place
Discovery Bay, CA 94514
(510) 634-0827

James Cutler
County Zoning Administrator
Contra Costa County Community Development Department
North Wing, 4th Floor
651 Pine Street
Martinez, CA 94553

Bill Slifer
Vice Chair
4660 Spinnaker Way
Discovery Bay, CA 94514
(510) 634-7898

Dear Mr. Cutler:

The Discovery Bay Municipal Advisory Council (DBMAC) is concerned with the negative impacts the Cowell Ranch Development will have on our community and the East Contra Costa County area at large. This development proposes to add over 5,000 housing units and almost 2,000,000 square feet of business space. In addition, this development will accelerate the development of vacant land between this proposed development and existing Brentwood developments.

Claudia Macdonald
Secretary/Treasurer
1152 Beach Court
Discovery Bay, CA 94514
(510) 634-1081

The primary concerns of the DBMAC in regard to negative impacts on our community and the East Contra Costa County area at large are as follows:

Dave Hieb
4325 Driftwood Place
Discovery Bay, CA 94514
(510) 516-2542

- **Traffic Congestion**

The primary concern of the DBMAC is the severe increase in traffic congestion that the proposed development will create through our community on State Highway 4, Byron Highway (J-4), Camino Diablo, Vasco Road and throughout the East County area. The increased traffic on these already heavily traveled substandard roads from existing and approved developments will only cause more congestion and accidents. Improvement to the existing arteries mentioned above must be completed to provide mitigation to an already serious situation.

48.01

Cheryl McDonald
1325 Shell Court
Discovery Bay, CA 94514
(510) 634-3121

David Piepho
1464 Discovery Bay Blvd.
Discovery Bay, CA 94514
(510) 516-2358

- **Potable Water Supply**

The potable water supply for this development must come from an alternate surface water treated source, such as the City of Brentwood as referred to in the "Draft" EIR. It is apparent from various studies that the existing Brentwood and Discovery Bay ground water

48.02

Cliff Pisenti
5052 Double Point Way
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(510) 634-4466

Discovery Bay Municipal Advisory Council

P. O. Box 272 • Discovery Bay, CA 94514 • (510) 634-1222

wells are pumping from the same aquifer with a limited supply. An example of ground water problems is the quality of ground water being pumped by Brentwood which contains elevated levels of nitrates. Until an area wide water study is completed for the availability of ground water for existing needs, ground water should not be considered.

48.02

- **Sewer Treatment Plant Construction**

The construction of a sewer treatment on the development should not be considered until all options of obtaining access to an existing sewer plant with the required capacity are exhausted. Our community is directly in the prevailing wind path of the proposed development. Westerly cooling summer winds that are our communities night time air conditioner come across the proposed Cowell Ranch Development.

48.03

The D.B.M.A.C. appreciates the opportunity to submit comments on the Cowell Ranch Project and request to be kept informed of future hearings on this project.

Very truly yours,

D.B.M.A.C.

Walter MacVittie

Walter MacVittie
Chair

WM/vl

Delta Diablo Sanitation District

OFFICE AND TREATMENT PLANT: 2500 PITTSBURG-ANTIOCH HIGHWAY, ANTIOCH, CA 94509
TELEPHONE: (510) 778-4040 ADMIN. FAX: (510) 778-8513 ENG. FAX: (510) 706-7156 MAINT. FAX: (510) 778-8565

January 8, 1997

97 JAN -9 PM 2:27
DELTA DIABLO SANITATION DISTRICT

Mr. Harvey Bragdon, Director
Community Development Department
Contra Costa County
651 Pine Street, North Wing, 4th floor
Martinez, CA 94553-0095

SUBJECT: COMMENTS, COWELL RANCH PROJECT, DRAFT ENVIRONMENTAL IMPACT REPORT

Dear Mr. Bragdon:

Thank you for the opportunity to comment on the Cowell Ranch Project Draft Environmental Impact Report (DEIR). Our focus was in the review of public services; especially water and wastewater services needed to serve the Project. In general, the DEIR looks at traditional services provided by the obvious service providers without looking at alternatives that might ultimately provide better service to residents in east Contra Costa County. The following comments suggest a regional effort for water and wastewater planning:

1. Page IV.F-1, last paragraph Water reclamation represents another source of non-potable water supply from the community that must be evaluated.] 49.01
2. Page IV.F-23, Mitigation PF-2 Add a mitigation measure to include using reclaimed water as a raw water supply. Source of reclaimed water could come from treatment works within: 1) the Project, 2) the city of Brentwood, or 3) southeast Antioch. The combined benefits of providing raw water and disposal of treated wastewater through reclaimed wastewater should be evaluated before any raw water plans are implemented.] 49.02
3. Page IV.F-24, Mitigation PF-3 In accordance with the County's ordinances, require the project install dual water pipelines to provide non-potable supplies to appropriate areas in the project.] 49.03
4. Page IV.F-32, Subsection (b) Ironhouse Sanitary District The subsection suggests that Ironhouse Sanitary District (ISD) could expand its wastewater disposal capacity to 20 mgd without any reference to engineering studies of the ISD treatment plant. Furthermore, the DEIR does not present the current or future wastewater treatment and disposal demands of ISD. The DEIR does not provide alternatives if the 11.8 mgd capacity needs for Brentwood and the ultimate needs for ISD are exceeded.] 49.04
4. Page IV.F-41, Mitigation PF-6 Annexation to ISD or a LAFCO-approved out-of-agency service contract would be necessary for both the city of Brentwood and Cowell Ranch should a long-term alternative of treatment and disposal at ISD facilities be implemented] 49.05

January 8, 1997

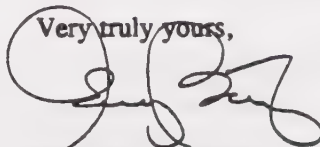
5. Page IV.F-42, Mitigation PF-6 discussion The Cowell Ranch project could also be served by either a regional wastewater treatment plant designed to serve far east county or by the Delta Diablo Sanitation through a connection into southeast Antioch.

49.06

We believe east Contra Costa County represents the most significant growth potential area in the county. Appropriate planning is necessary to assure the current and future residents and businesses receive long-term and cost-effective water and wastewater services. This kind of planning includes looking at the potential benefits regional agencies can provide.

If you have any questions or comments on the above, we would be happy to discuss them with you.

Very truly yours,



Gregory G. Baatrup
Planning and Development Engineer

GGB:dcj

t:\engineer\cowell.ltr



January 8, 1997

Mr. James Cutler
CCC Community Development Department
651 Pine Street, 4th Floor, North Wing
Martinez, CA 94553-0098

COMMUNITY
DEVELOPMENT DEPT
JAN 13 PM 4:18
JAN 13 1997

Dear Jim,

Thank you for the opportunity to comment on the Draft EIR for Cowell Ranch. This is obviously a major project with over 5,000 units proposed on a 4,300 acre site. The EIR itself is a major undertaking and is comprehensive and well written. However, there are a number of problems with the document, particularly concerning some of the assumptions and inputs into an EIR. The problems with the assumptions are significant enough to call into question the accuracy of the EIR, and its use as an information document on which to base land use policy decisions. These problems, as well as other more minor concerns, are noted in the following sections:

TRANSPORTATION

1. The traffic distribution assumptions (Pg. IV C-46) fail the common sense test. The EIR assumes for the year 2010 that over 87% of the morning peak hour trips from Cowell Ranch travel to a destination within East County (Table 24, pg. IV-C-46). The numbers are only slightly different for the year 2026 (project buildout), with 85% of the peak hour trips staying within East County. Given that the A.M. peak hour represents primarily commute traffic, the EIR is essentially assuming that only 1 out of 8 employed residents in Cowell will work outside of East County. The result of these assumptions are some unusual traffic model results as shown on Figures 36 and 37. For example, the traffic

50.01

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model concludes that in the year 2010 with 1868 new homes proposed on Cowell that only 4 additional A.M. peak hour trips will be generated by the project on Vasco Road and only 20 additional P.M. peak hours on Highway 4 west of Somersville Road. How you could build almost 2,000 new homes on Cowell and then assume only 4 more cars will end up on Vasco Road forces the reader of the EIR to stretch their imagination.

50.01

The traffic analysis needs to be revised to incorporate more realistic traffic distribution assumptions. While it would be desirable to have a situation where over 80% of East County residents work within East County, it would be a mistake to make a major land use policy decision based on an analysis that contains such optimistic assumptions.

2. Another serious problem with the transportation analysis is how the issue of mitigation measures is handled. The EIR documents a long list of mitigation measures that are needed to address the traffic impacts of the project (Pgs. IV C-84-87, Tables 32 and 33). However, the EIR then "punts" on the question of what share of the improvements would be the responsibility of Cowell. Instead the EIR describes a process whereby Cowell would demonstrate compliance with performance standards through "fair share" funding or other means to the satisfaction of the County.

Even if the reader of the EIR is willing to wait for some future step in the process to see what share of roadway improvements Cowell will be required to build, one cannot help but wonder how the question of "fair share" funding would be interpreted. Logically it could be determined through the traffic analysis, with Cowell funding roadway improvements based on the proportion of future traffic on that roadway generated by Cowell. However, as already discussed under the previous comment, the traffic distribution assumptions in the EIR result in a significant understatement of the traffic impacts of Cowell, particularly on the regional road network. While this may be advantageous to Cowell it puts the Lead Agency (i.e., the County) in a difficult position.

50.02

It is also important to note that approval of a Development Agreement is being requested. With a Development Agreement the County is not bound by strict legal nexus requirements and can negotiate for additional circulation improvements and mitigation. However, with the whole question of what share of improvements Cowell will build being essentially deferred in the EIR, this kind of negotiation becomes impossible. This again demonstrates that the EIR as it is currently written is falling short in its function as an information and disclosure document.

3. Aside from the question of what road improvements will be built, the next and equally important issue is when they will be built. Given that the EIR does an inadequate job of identifying the road improvements the project will construct, it is not surprising that it is a bit sketchy on the timing of construction of road improvements. This issue is absolutely critical for a large project like Cowell which is remote from any existing regional transportation facilities. Given this lack of proximity to regional transportation the initiation of any construction on Cowell should be contingent on the completion of the Hwy 4 Bypass to the Cowell property and the widening of Hwy 4.

The EIR hints at these timing issues. It states on Page IV C-54 that "a mitigation to this (Phase 1) impact would be to require that the planned future widening of this section of SR 4 (Railroad to Hwy 4 Bypass) to 8 lanes be completed before Phase 1 of the project is completed." However, this statement never appears as a mitigation measure in the EIR. Instead, the EIR goes on to state (Pg. IV C-55) that at buildout the traffic impacts on SR 4 would exceed the capacity of even a widened freeway, therefore this is an unavoidable, adverse impact and hence no special mitigation is required. This is certainly curious logic. In effect this says that while we could mitigate the impacts on Hwy 4 for the first 2,000 units at Cowell (Phase 1), we aren't going to do anything because at 5,000 units (buildout) Hwy 4 exceeds capacity. I don't believe this approach meets legal requirements of CEQA to propose reasonable mitigation.

Aside from Hwy 4, the EIR is silent on the relationship of the timing of the construction of the Hwy 4 Bypass to the timing of the project. The EIR in several places references the Strategic Plan prepared by the East County Fee and Finance Authority, stating on Pg. IV C-52 that the Hwy 4 Bypass will not be in place until sometime between 2006 and 2010. In addition the traffic analysis in the EIR for both Phase I completion (2010) and for buildout (2026) assumes a completed Hwy 4 Bypass. However, nowhere in the EIR is there a direct link between the Hwy 4 Bypass being completed and the project initiated. In fact the time frame presented in the EIR (Table 4, Pg. III-37) show the construction initiating in 2001 a full 6-9 years before the projected completion of the Hwy 4 Bypass as far south as Cowell.

The EIR needs to be revised to tie the initiation of the construction at Cowell to the completion of the necessary regional road improvements (i.e., Hwy 4 widening to Hwy 4 Bypass and the extension of Hwy 4 Bypass to Cowell). Without such a mitigation measure the Cowell project constitutes "leap frog" development. Such a "leap frog" situation would conflict with a number of the relevant goals and policies of the County General Plan and the "Conditions for a 21st Century Community " document as spelled out in Pgs. V-A-26

50.03

to 28 of the EIR. The timing of development proposed by Cowell also violates the Brentwood General Plan (Pg. IV-A-34) which does not assume any development on Cowell until sometime after the year 2015, roughly 14 years later than proposed by Cowell.

A final point that should be included in the EIR on this issue is that the Cowell project was not included in the developments assumed for the East County Regional Fee Program. Therefore, development of Cowell is not required to fund the Regional Fee Program improvements. This is an additional rationale to tie the Cowell Project to the completion of the necessary regional roadway improvements as its development has not been programmed into the Regional Fee Program.

4. A key component of the traffic analysis is the assumption that a substantial amount of employment uses will be developed with the project. The EIR on pages III-34 states that approximately 1.5 million square feet of employment space will be built by the year 2010 with an additional .5 million by the year 2026 (project buildout). While the number for buildout appears realistic the assumption of 1.5 million square feet by 2010 is very optimistic given that the Hwy 4 Bypass will likely not be completed as far as the Cowell until the year 2010. The EIR itself states that in the absence of the Hwy 4 Bypass the Cowell property's ability to attract job producing uses would be very limited.

Such optimistic assumptions on the timing of employment uses call into serious question the accuracy of the traffic analysis. One way of addressing this problem in the EIR is to incorporate a mitigation measure, as suggested previously, to tie the initiation of development of the Cowell property to the completion of the Hwy 4 Bypass to the Cowell site. This would result in a reasonable expectation of achieving the simultaneous development of housing and significant employment uses.

5. The Cowell project appears to be designed with the clear intention of being "transit friendly." While this goal is laudable there are no requirements in the EIR to ensure this occurs. There is some reference to an internal transit system. Concerning external transit service the EIR simply states that if no transit provider can serve the site the impacts on traffic congestion would remain a significant unavoidable impact. Given Cowell's intent to initiate construction in 1999 with occupancy in 2001, it is doubtful that a transit operator would serve in the short term a development so far removed from any nearby projects that could reasonably be accessed by transit. It would appear that Cowell's transit friendly intentions and hurry to commence construction in 1999 are incomparable. A clear solution would be a mitigation measure that ties the timing of Cowell to the completion of necessary regional road improvements. This would better ensure Cowell access to transit

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facilities and services.

↑ 50.05

DEVELOPMENT AGREEMENT

The EIR makes reference to a Development Agreement being submitted as part of the application package (Pg. III-10). However, the EIR contains no information about what is contained in the agreement. In order for the EIR to address this agreement the project description section of the EIR should at a minimum identify the major points being committed to by the applicant and the Lead Agency in the Development Agreement. Any environmental impacts associated with these commitments should then be evaluated in the EIR. Without this information further environmental review would be required for the Development Agreement beyond the current Draft EIR.

50.06

MISCELLANEOUS COMMENTS

The Sphere of Influence map (Figure 17) does not accurately reflect the City of Antioch sphere of influence.

50.07

SUMMARY

Once again we appreciate the opportunity to comment on the Draft EIR. There is clearly a common theme that runs through a number of our comments. This theme concerns the lack of connection between the initiation of the project and the completion of regional road improvements to the site. Creating such a link would clearly mitigate a number of major project impacts as discussed in this letter. Without such a link the Cowell project becomes a large scale example of leap frog development with all the resultant negatives. The EIR needs to be revised to incorporate meaningful mitigation measures that address these issues.

Please feel free to call if you have any questions or comments concerning the items addressed in this letter.

Sincerely,



VICTOR CARNIGLIA
Deputy Director Community Development

Mr. James Cutler

January 8, 1997

Page 6

cc: City Council
Planning Commission
David D. Rowlands, Jr., City Manager
Bill Galstan, City Attorney
Stan Davis, City Engineer/Public Works Director
Ron Ward, Director Community Development
Joe Brandt, Assistant City Engineer

DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47

YOUNTVILLE, CALIFORNIA 94599

(707) 944-5500

RECEIVED



January 8, 1997

97 JAN 13 AM 9:55

RECEIVED
DEVELOPMENT DEPT

Mr. James W. Cutler
Contra Costa Community Development Department
651 Pine Street, N. Wing, 4th Floor
Martinez, California 94553-0095

Dear Mr. Cutler:

Draft Environmental Impact Report (DEIR)
Cowell Ranch General Plan Amendment (GPA)
Rezoning and Related Entitlements
City of Brentwood, Contra Costa County
SCH# 93013024

Department of Fish and Game personnel have reviewed the above-referenced document which proposes urban, commercial, and light industrial development on a 4,277-acre site in eastern Contra Costa County. The DEIR analyzes the environmental impacts associated with conversion of approximately 946 acres of non-native annual grassland, 286 acres of orchard and cropland, 13.5 acres of blue oak woodland, 5.9 acres of aquatic habitats, 0.3 acres of riparian forest, and approximately 2 acres of other native vegetative communities. The DEIR proposes establishing approximately 3,008 acres of open space, a portion of which would be managed as mitigation lands for impacts to listed and otherwise sensitive wildlife species.

Our review is based on knowledge of sensitive species occurrences and vegetative communities in the vicinity of the proposed project site and review of the following documents: the DEIR, the Draft Habitat Management Plan (DHMP) prepared by LSA, a series of rare plant survey reports prepared during 1993 and 1994, reports detailing the results of focused reptile and amphibian surveys and past correspondence between the applicants consultants and the Department. We have the following comments.

Project impact acreages identified on page IV.G--28 of the DEIR and on page 42 of the DHMP are inconsistent. Because the DEIR relies significantly on the DHMP for providing mitigation measures for impacts in the DEIR, project impact acreages and other elements of these documents should be consistent. For example, the DHMP identifies zero acreages of blue oak woodland to be impacted by proposed project actions while the DEIR states that 13.5 acres of the community would be impacted.

51.01

Mr. James W. Cutler
January 8, 1997
Page Two

The Department is concerned with the descriptions provided in the DEIR of seasonal aquatic habitats. The discussion on pages IV.G--8 and IV.G--9 lead the Department to conclude that substantially more vernal pool habitat is present on site than described in either the DEIR or the Zentner and Zentner report. Northern Claypan Vernal Pools are an important and sensitive native plant community which support a diverse array of plant and wildlife species. Due to the on-going loss and increasing scarcity of this habitat type, many associated species are listed by State and Federal agencies as rare, threatened or endangered or otherwise designated as sensitive. The DEIR should clearly identify Northern Claypan Vernal Pool and other vernal pool habitat types and ensure on-site, in-kind mitigation is provided. If, after thorough consideration, on-site mitigation is considered unfeasible, the DEIR should identify off-site mitigation which would replace the value and function of lost pools.

51.02

Mitigation BR-1 on page IV.G--31 of the DEIR refers to "grassland-related" mitigation measures in a Draft Plan for Grasslands. The Department has not reviewed or commented on this document and the document is not available as a technical appendix to the DEIR or related documents. Therefore, the Department cannot evaluate the effectiveness of this measure for reducing impacts to grasslands to less than significant. The DEIR should either make this document available to DEIR reviewers or include relevant mitigation measures directly in the DEIR. Alternatively, the DEIR could require approval of the final Grassland Plan and final Habitat Management Plan by the Department and U. S. Fish and Wildlife Service and develop a performance standard which required the proponent to implement approved mitigation measures.

51.03

On page IV.G--34, Mitigation Measure BR-2 requires implementation of the blue oak woodland-related mitigation measures in the DHMP as the primary means of mitigating impacts to Blue Oak Woodland habitats. As previously stated, the DHMP does not address impacts to blue oak woodland and states that blue oak woodland habitats would not be impacted. The DEIR should either provide specific mitigation measures or the DHMP should be revised to identify and address impacts to this habitat type. Although the applicant's proposed measures for impacts to blue oak woodland are consistent with the Department's policies on loss of this type, the DEIR should require development of a mitigation and monitoring plan for blue oak woodland to assure that replacement values and acreage truly mitigate proposed losses. The DEIR should further provide for Department approval of this plan.

51.04

Mr. James W. Cutler
January 8, 1997
Page Three

The Department disagrees with the DEIR's assertion on page IV.G--35 that impacts to Valley Sink Scrub habitats would be minor. Although the GPA identifies this habitat as within the open space, the open space would be accessible by pedestrians, equestrians and other recreationalists and this use would likely substantially increase with development of the Cowell Ranch project. The DEIR should provide for active management and/or protection of sink scrub habitats to assure that existing values are maintained.

51.05

Mitigation BR-3 on page IV.G--36 of the DEIR should identify the requirement for consultation with the Department under Fish and Game Code Section 1603 prior to construction of the over-crossing of Marsh Creek.

51.06

Mitigation measure BR-4 on page IV.G--39 of the DEIR should require approval of the Wetland Mitigation Plan and final HMP by both the Department and the USFWS. The final HMP and Wetland Mitigation Plan, at a minimum, should include the additional applicant-proposed measures and the measures required by the DEIR. Measure BR-4 should also explicitly require implementation of the final Wetland Mitigation Plan.

51.07

The Department is concerned that Measure BR-6, on page IV.G--43 of the DEIR, is inadequate to reduce impacts to special status plant species to less than significant levels. While the Department supports avoidance of sensitive biological resources as a primary means of mitigating project impacts, relocation of plant populations should be considered experimental and applied only under salvage conditions. If suitable habitat for these species exist on the proposed project site, by definition, the species would currently occupy that habitat. The DEIR should identify the need for a preservation and creation component where avoidance of sensitive plant populations is not feasible. Preservation of an off-site population would substantially increase the potential for viability of the preserved population over time. This, combined with creation of a new on-site population using salvaged individuals from the impacted population, would more fully mitigate the complete loss of a functioning population of either San Joaquin spearscale or Big Tarplant.

51.08

The Department concurs with the requirement of the DEIR in Mitigation BR-8 to revise and demonstrate agency approval of the DHMP as a condition of approval of the DEIR. The DEIR should also require the measures proposed by the applicant and other DEIR measures relating to mitigation of impacts to the San Joaquin kit fox to be implemented prior to, or as appropriate, during project approval. In addition, the DEIR should

51.09

Mr. James W. Cutler
January 8, 1997
Page Four

acknowledge the requirement for consultation with the USFWS and the Department to develop avoidance and/or project mitigations as part of the Federal and State Endangered Species Act (ESA) permitting process. Although it is unknown at this time how project permitting under ESA would be accomplished, the DEIR should set forth the permitting requirement as one component of Mitigation BR-8.

51.09

The Department is concerned that Mitigation BR-10, on page IV.G--53 of the DEIR, does not fully mitigate for proposed impacts to the California Tiger Salamander (CTS) as a result of proposed project actions. The Department considers construction of stock ponds and inoculation with CTS larvae and potential prey species experimental and, as such, does not constitute meaningful mitigation. Many aspects of CTS life history are poorly understood and despite the apparent adaptability of this species to a variety of aquatic environments, many factors beyond the applicant's control may influence the success of the experimental relocation.

The DEIR should require avoidance as a primary means of mitigating impacts to CTS. If, after exhausting all avoidance alternatives, avoidance is deemed unfeasible, the DEIR should require either on- or off-site preservation and a creation component. Ponds could be established in areas which have demonstrated upland estivation habitat occupation and secondary breeding ponds. In this case, supplementing the population with egg masses may be beneficial. However, a preservation component at a ratio of 1:1 should be required by the DEIR under Mitigation BR-10.

51.10

In addition to relying on experimental relocation as primary mitigation for impacts to CTS, Mitigation BR-10 fails to require binding implementation of measures contained in the current DHMP or future final HMP. Requiring incorporation of a CTS Management Plan into the final HMP does not accomplish mitigation for impacts to the species. BR-10 should require development of a CTS Management Plan which could be incorporated into the final HMP and which must be both approved by the Department and implemented prior to ground disturbing activities. The Department would consider impacts reduced to a level of insignificance if mitigation was revised to include a preservation and creation component and if the measure was revised to bind the applicant to mitigation implementation.

Mitigation BR-12 on page IV.G--57 of the DEIR should provide for review and approval of the final HMP, including measures identified in the DEIR for the protection of burrowing owls and mitigation for impacts to burrowing owls, by the Department.

51.11


Mr. James W. Cutler
January 8, 1997
Page Five

The Department believes the proposed project, along with other projects currently proposed in eastern Contra Costa County, represent a significant cumulative impact on wildlife and natural vegetative communities in the region. The area is an important transitional area between the coastal mountains and grasslands of the central valley and supports a broad diversity of vegetative communities and wildlife populations. This diversity is being lost at a rapid rate and is further exasperated by fragmentation from public and private land use conversions. The DEIR should acknowledge the significance of this cumulative loss and identify regional mechanisms which might contribute to offsetting cumulative impacts.

51.12

If you have any questions regarding these comments, please contact Kevin Hunting, Environmental Specialist, at (707) 944-5570; or Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525

Sincerely,



Brian Hunter
Regional Manager
Region 3

cc: Ms. Shiela Larsen
U. S. Fish and Wildlife Service
Sacramento

Lt. Col. Dorothy Klasse
U. S. Army Corps of Engineers
San Francisco



CONTRA COSTA TRANSPORTATION AUTHORITY

COMMISSIONERS:

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Hermann Weim
Robert K. McCleary
Executive Director

January 8, 1997

Mr. James W. Cutler
Assistant Director of Comprehensive Planning
Contra Costa County Community Development Department
651 Pine Street
Martinez, CA 94553-0095

SUBJECT: CCTA Review Comments on the Cowell Ranch General Plan Amendment
Draft EIR

Dear Mr. Cutler

Thank you for this opportunity to provide comments on the Draft EIR for the Cowell Ranch General Plan Amendment. The Contra Costa Transportation Authority (CCTA) staff has reviewed the DEIR and has the following comments.

- We are first and foremost concerned that the EIR identifies off-site roadway improvements as mitigations which cannot be counted on, as they do not currently have identified funding. These roadway improvements are listed on pages IV.C-54 to 56. It should be noted in the EIR that these roadway improvement projects do not have funding identified for them. Who will pay for these improvements? Will development approval or staged implementation be conditioned on these roadway improvements being implemented first? 52.01
- The Transportation Setting Section (page IV.C-3) should include a discussion of the Measure C Regional Route Network and the CMP Network. 52.02
- Table 17 (page IV.C-17) contains a "V/C Threshold." It is not clear where this threshold is derived from. Is it from the Measure C program? 52.03
- Are the intersections listed in Table 17 the only intersections that would be impacted by the project? CCTA's Technical Procedures requires that traffic studies include all intersections where 50 or more project peak-hour trips are added. Was this criteria applied? 52.04
- The determination of study intersections is discussed on pages IV.C-32 & 33: it is not clear how the 18 vs. 69 intersections were selected. Are there only 18 intersections in the year 2010 to which the project would add 50 or more trips, and 69 intersections that meet this threshold in the year 2026? 52.05
- What is the difference between "primary" and "secondary" intersections on Tables 28 and 29 (pages IV.C-74 to 81)? The tables should include a footnote to explain 52.06

340 Treat Boulevard
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Pinot Creek
A 94596

PHONE:
938-3970

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938-3993

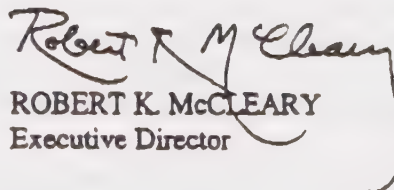
Mr. James W. Cutler
Cowell Ranch General Plan Amendment Draft EIR
January 8, 1997
Page 2

the difference.

- The statement on page IV.C-24 related to the Contra Costa CMP is incorrect, that the "CMP land use program in eastern Contra Costa County is the growth management portion of the East County Action Plan." This section should address the CMP LOS standards and more specifically discuss the Measure C Growth Management Program. 52.06
- Cumulative development is discussed on page IV.C-31 of the Draft EIR. How was cumulative traffic growth calculated for the 2026 scenario? ABAG forecasts for land use, from which trips would be derived, do not go out this far. 52.07
- Table 23 on page IV.C-45 shows the project peak hour trip generation summary; this table should break down the directional distribution of the trips (i.e. inbound and outbound). 52.08
- Table 26 and 27 starting on page IV.C-70 shows LOS and traffic volumes with and without the project. It is not clear why, in some cases, traffic volumes go down with the project. 52.09
- The *Public Facilities and Services* section of the EIR should address the performance standards as required under Measure C, determine whether or not a "Findings of Consistency" with the standards can be made for the project, and explain the potential for a jurisdiction to lose its Measure C return-to-source funds should the project be inconsistent with achievement of standards. 52.10
- The Notice of Preparation for the EIR was issued on December 31, 1992. Since that time, the CCTA has prepared and adopted a Countywide Transportation Plan with a process for reviewing General Plan Amendments within the County to ensure compliance with Measure C. This process should be discussed in the EIR and RTPCs should be notified accordingly. 52.11

Again, we thank you for the opportunity to comment on the Draft EIR and look forward to reviewing the Final EIR. Please call me or Mark Wagner of my staff should you have any questions regarding our comments.

Sincerely,


ROBERT K. McCLEARY
Executive Director

cc: Patrick Roche, TRANSPLAN
File 2.23.3 & 15.5.9

mjw/wpfiles/cwleir.com

TRANSPAC Transportation Partnership and Cooperation

Clayton, Concord, Martinez, Pleasant Hill, Walnut Creek and Contra Costa County
100 Gregory Lane, Pleasant Hill, California 94523 (510) 671-5250

Mr. James Cutler
Assistant Director of Comprehensive Planning
Contra Costa County
Community Development Department
651 Pine Street, 4th Floor, North Wing
Martinez, California, 94553

January 8, 1997

Dear Mr. Cutler:

Thank you for the opportunity to review the Draft Environmental Impact Report (EIR) for the Cowell Ranch General Plan Amendment and Related Actions.

The project was presented to TRANSPAC at its November 14, 1996 meeting by County Community Development Department staff. It is our understanding that this Draft EIR is considered a Master EIR for a project which is proposed to include 5,226 dwelling units, 1.86 million square feet of commercial and business park floor space, a golf course, and associated public, institutional, recreational and infrastructure uses on a 4,277 acre site partially outside the County-established Urban Limit Line.

The project requires an Amendment to the Contra Costa County General Plan including an adjustment to the Urban Limit Line, rezoning of various portions of the site and approval of a development agreement between the County and the applicant. The site is partially within the Sphere of Influence of the City of Brentwood and the project area may be annexed into the City in the future.

Pages IV.C-31-32 generally describe the methodology used to develop a "second model traffic scenario" to develop 2026 estimates including planned transportation improvements described in Table 22. Has this "second scenario" been reviewed by technical staff other than the County and consultants for this EIR? Has this scenario been reviewed by Metropolitan Transportation Commission staff? Given the current discrepancies between the East and Central County models, the Draft EIR should more fully document the assumptions included as part of the "second model". Please note that Appendix C appears to only describe the development of the model to 2010, not the extension to 2026.

53.01

TRANSPAC is very interested in the impact of the project on Central County intersections which meet the same screening criteria (increase of 50 or more peak hour vehicle trips) used to assess East County intersections. We appreciate the identification of "out of area" impacted intersections; however, any intersection in Central County which meets this criteria, as a result of the project, should be subject to the same level of analysis and development of mitigation measures as intersection in East County (page IV.C-33).

53.02

In addition, Table 30 on page IV.C-83 does not match similar information generated for the for the Central County Action Plan. There are intersections listed with different V/C and LOS. Hopefully, the information provided to the County staff by the TRANSPAC Action Plan consultant will assist in resolving differences between the East County and Central County models.

53.03

2

The Buchanan Road Bypass (Table 22, page IV.C 36, IV.C-52, IV.C-83, etc.) which is not yet constructed, is designated as an "out of area" intersection which will achieve LOS F at the Kirker Pass Road intersection in 2010. It appears that this intersection will be impacted by the project and even though not yet built, will achieve LOS F as soon as it is open. The Draft EIR should assess the project's impact on this intersection in detail and propose mitigation measures which might be incorporated into the Bypass project prior to construction.

53.04

TRANSPAC has noted the proposed vacation of Marsh Creek Road from southwest of Cowell Parkway to Camino Diablo and appreciates that this may assist in rerouting some interregional traffic to SR4. Please note that the Draft EIR should reassess the low volumes on Marsh Creek Road west of Deer Valley Road. Given the configuration of the project relative to Marsh Creek Road and its access to Central, the projected low volumes are questionable and raise issues regarding the distribution assumptions in the Draft EIR.

53.05

The AM and PM Trip Distribution Tables 24 (and 25) on page IV.C-46 (and C-47) indicate that only 2.8% of Phase I 2010 vehicle trips will travel in/out of the Cowell Ranch Project to the "rest of Contra Costa", exclusive of the City of San Ramon (0.5%). This "out" number seems particularly low. This is further complicated by the assumption that nearly 60% of the trips will not leave "far" East County and that over 87% will not leave East County at all. The high percentage of internal trip distribution within "far" East County and East County as a whole needs to be reassessed and a realistic distribution table needs to be developed. The same general comment holds for 2026 which also proposes a very high internal distribution percentage and a very low percentage to areas outside of East County.

53.06

Pages IV.C -1, 36-38 and 54-56 list assumptions about East County roadway improvements and specific improvements to offsite roadways. The Draft EIR needs to address the funding requirements and mechanisms for these projects. The projects on pages IV.C 54-56 are not included in any regional or local programming plans for funding. How can these projects be cited as mitigation measures without identified reasonably realistic mechanisms? The fair share funding and other measures detailed in Mitigation T-1 must ensure that the required local and regional transportation improvements, TDM programs, management of jobs and housing construction are developed and implemented, not only to the County's satisfaction, but are also are coordinated with affected East County jurisdictions and funding agencies on an ongoing basis.

53.07

Page IV.C-58, as noted at the TRANSPAC presentation, TRANSPAC does not support telecommute centers. In our view, these facilities have not proven effective. Wiring each unit to provide for electronic communication is a more viable approach, although the number lines which can be installed needs to be carefully assessed. Two lines may not be sufficient to handle household, home occupation, internet, and fax requirements.

53.08

TDM approaches are described on pages IV.C 58-59. While many of these may be appropriate for the project, it appears that some of the proposed measures (incentives, flexible work hours, etc) will require deed restrictions and other conditions to ensure that the TDM project/programs are implemented in the future. The Draft EIR should clearly indicate

53.09

3

how the County or City of Brentwood can ensure the appropriate implementation of TDM measures in the future.

53.09

Impact/Mitigation T-9 and T-10 (IV.C-65-67) relate to mitigation for local streets. While not an area of primary concern to TRANSPAC, the proposed Y-shaped intersections, already identified as potential safety hazards in the interior of the development should be reconfigured. Otherwise, it appears that reconstruction of these intersections will only become a future public expense, presumably for the City of Brentwood. Given the magnitude of regional transportation improvements necessary in East County, it appears imprudent to approve intersection configurations which may have to use scarce transportation resources for reconstruction in the future. The Draft EIR should require reconfiguration of these intersections now, not as more detailed plans are submitted. For T-10, the project, on the assumption of future annexation to the City of Brentwood, should comply with Brentwood's local street standards.

53.10

53.11

Impact/Mitigation T-11 (page IV.C-68), given the focus on TDM measures in this development, the Draft EIR should strengthen the monitoring requirements for this measure.

53.12

Impact/Mitigation T-12 (page IV.C-68-69) needs to be more detailed relative to the requirements for shuttle services and connections to regional transit. This is a significant issue given the limitations of the future road network, parking capacity at regional centers and the need to supply access to regional facilities from the project area.

53.13

Impact LU-11 (page IV.A-57 et seq.) describes the onsite jobs/housing balance as a major policy issue and a potentially significant adverse project impact. Mitigation LU-11 requires the formulation and submittal of an Employment Development Program (EDP). The EDP is to include a variety of components intended to support the achievement of "an adequate balance between the development of housing and jobs, ..." (page IV A-59). While this is a laudable mitigation measure, its effectiveness is questionable. While every effort can be made to develop a jobs/housing balance, neither residency nor job location can be legislated. Infrastructure phasing to foster job creation may have some beneficial impact. However, absent stronger mechanisms to ensure local jobs for local residents, it may be advisable to revise the trip distribution table in the Draft EIR to reflect a higher percentage of "out commutes" than is currently assumed.

53.14

In addition, as noted in Impact LU-12, Resident Access to Onsite Jobs and Services (page IV.A-62), fully 56% of the project housing units will not be located within convenient walking distance of proposed commercial, job and transit centers within three project subareas. As mitigation (page IV.A-63), an internal transit system with connection to regional service is proposed. This is a good approach but costly. Is the applicant responsible for the provision of the service or will that fall to the local transit operator who may be hard-pressed to cover operating costs with available subsidies. This mitigation measure should be more specific about how such service will be provided and funded, particularly with regard to ADA requirements for seniors located in the Golf Course Residential subarea. In addition, the Draft EIR should address how residents will be encouraged to use transit for local commutes, shopping, etc..

53.15

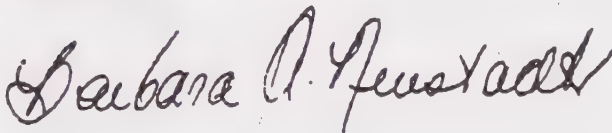
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While TRANSPAC understands that this project predates the establishment the Contra Costa Transportation Authority's General Plan Amendment Review Process (Res. 95-06-G), we suggest that the it is in the applicant's best interest to include an analysis of the project's impacts on the Traffic Service Objectives (TSO) in the East County Action Plan. We also suggest consideration of an analysis of TSOs for any Routes of Regional Significance in Central County on which identified impacted intersections are located. TRANSPAC also requests that the Board of Supervisors not approve a General Plan Amendment for a project of this magnitude which requires an adjustment to the established Urban Limit Line.

53.16

TRANSPAC appreciates the opportunity to review the Draft EIR, extends its thanks to Mr. Pulon for his presentation and requests that any and all documents (Response to Comments, Final EIR, notice of subsequent project requests/approvals and copies of transportation-related mitigation measures) be sent to TRANSPAC.

Sincerely,



Barbara A. Neustadter
TRANSPAC Manager

cc: TRANSPAC Representatives (packet mailing)
TRANSPAC TAC (packet mailing)
Martin Engelmann, Deputy Director, Planning, CCTA

CITY OF CONCORD
1950 Parkside Drive
Concord, California 94519-2578
FAX:

CITY COUNCIL
Bill McManis, Mayor
Mark A. Peterson, Vice Mayor
Helen M. Allen
Michael A. Pastrick
Lou Rosas

Lynnet Keihl, City Clerk
Thomas Wendling, City Treasurer

Edward R. James, City Manager



Telephone: (510) 671-3129

January 9, 1997

Mr. James Cutler
Contra Costa County
Community Development Department
651 Pine Street, 4th Floor, North Wing
Martinez, CA 94553

CONTRA COSTA
97 JAN 30 AM 11:20
COMMUNITY DEPT
DEVELOPMENT

Subject: DEIR-Cowell Ranch General Plan Amendment (SCH#93013024), Rezoning and Related Entitlements (County #1-92-CO, Rezoning #RZ933014)

Dear Mr. Cutler:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for Cowell Ranch General Plan, rezoning and related entitlement. We have the following comments on issues regarding land use and transportation.

Page IV.C-31: The Travel Model of Eastern Contra Costa County (East County Model) was used to analyze the transportation impacts of the project. This model was calibrated to replicate traffic in East County, which it does very well. However, the model does not accurately reflect travel in Central County. This is reflected in the Level of Service (LOS) calculations shown on pages IV.C-82,83 in Tables 30 and 31 for intersections in Concord. The Central County Model has not find these intersections to be at "F." Without a more refined calibration of the East County Model, the true impacts of the project cannot be determined so that appropriate mitigation measures can be identified.

54.01

Page IV.C-35: As shown in Table 21, "Summary of Employment Estimates - Years 1990, 2010, and 2026," the number of jobs in Central County decreases between 2010 and 2026. This contradicts the employment trend estimated by ABAG in Projections 96. The ABAG document anticipates that the total number of jobs in every City in Central County will continue to increase through 2015. Please provide documentation to support your assumption that employment decreases. Incorrect assumptions about employment will contribute to erroneous travel forecasts from the East County Model.

54.02

Page IV.C-46 & 47: The number of am peak hour trips shown in Tables 24 and 25 to the "Rest of Contra Costa" seems very low for a project of this magnitude. It does not seem reasonable that only 42 trips in 2010 and 59 trips in 2026 generated by this project would be going to cities in the "Rest of Contra Costa," cities such as Concord, Walnut Creek, and Pleasant Hill. It appears that the network model needs to be recoded in order to replicate the actual traffic movements. Please provide a plot of Zone Centroid connectors.

54.03

Page IV.C-46 & 49: Please explain why Table 24 indicates that the "Rest of Contra Costa" has a maximum of 42 trips in the am peak when Figure 36 indicates there are 48 trips using Marsh Creek Road going into the City of Clayton. Does this mean that the project generates no trips to Central County and/or beyond using State Route 4? Please provide plots of a Select Link analysis showing the referenced trips on these routes.

54.04

Page IV.A-59: Mitigation LU-11 does not appear to be a viable condition of approval. The Employment Development Program (EDP) attempts to force the project to achieve an internal jobs/housing balance without specifying an enforcement procedure. The appropriate mitigation measure to ensure an internal jobs/housing balance should read "Everybody living in Cowell Ranch shall be employed in Cowell Ranch. Everybody working in Cowell Ranch shall live in Cowell Ranch." However, this mitigation measure most likely would be determined to be unconstitutional and could certainly be considered unreasonable. The City of Concord has a balanced jobs/housing ratio; but all commute trips are not internal to the City. If the trip distribution portion of the modeling process has been altered to constrain people living in Cowell Ranch to work in Cowell Ranch, then the modeling process should be redone to allow an unconstrained assignment. Otherwise, the traffic impacts generated by the project cannot adequately be determined.

54.05

General Comment: The DEIR appears to analyze only the "Best Case" scenario for determining traffic impacts. The report assumes major roadway improvements, such as SR 4, SR 4 Bypass, and BART, in Table 22, "Key East County Roadway Improvement Assumptions," without identifying the funding mechanism for these projects. It assumes that the supply of housing and employment will always be internally balanced. The DEIR should also analyze traffic impacts for the "Worst Case" scenario or at least a "Reasonable Case" scenario not just the "Best Case". It is not clear if or how it could be absolutely guaranteed that the employment and the housing would be built simultaneously, with all working residents always employed in the project. The assumption that virtually all employed residents would always be working in the project cannot be considered reasonable and must be considered incorrect.

54.06

Again, we appreciate the opportunity to comment on this project and we look forward to receiving your responses to our concerns. If you have any questions about our comments, please contact me at 671-3129 or Tom Clausen, Director of Engineering and Transportation, at 671-3137.

Sincerely,



John Templeton

Associate Transportation Engineer

cc: Edward R. James, City Manager
Thomas J. Clausen, Director of Engineering and Transportation
TRANSPAC

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

January 13, 1997

Mr. James W. Cutler
Contra Costa County Community Development Department
651 Pine Street (North Wing, Fourth Floor)
Martinez, CA 94553

**Subject: Draft Environmental Impact Report for the Proposed Cowell Ranch
Project, Contra Costa County**

Dear Mr. Cutler:

Bay Area Air Quality Management District (BAAQMD) staff have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Cowell Ranch project in eastern Contra Costa County. The DEIR examines the potential impacts to the environment of amending the County's General Plan to allow development of the 4,277-acre rural site with 5,226 dwelling units, 1.86 million square feet of commercial and office uses, various public and semi-public facilities and recreational land uses, and 199 acres of roadways.

BAAQMD staff have strong concerns about the proposed project and urge the County to reject it in favor of the No General Plan Amendment Alternative, which would allow development of the site with 16 rural residences. The DEIR finds, and we concur, that the project would result in significant impacts on regional air quality, even after mitigation. According to the DEIR, project-related vehicle emissions at project buildout are expected to be 391 lb/day of reactive organic gases, 735 lb/day of nitrogen oxides and 1,065 lb/day of particulate matter. These figures are well in excess of the BAAQMD's significance threshold of 80 lb/day for each pollutant.

Despite commendable strategies to reduce vehicle travel, such as the creation of walkable, mixed-use "villages" and a jobs/housing balance, the project will result in a large number of miles traveled for several reasons. Fifty-six percent of the residents will not be within walking distance of the proposed commercial, employment, and transit centers. As Table 23 of the DEIR shows, only 13-21 percent of peak hour trips will be made exclusively within the project site; the remainder will be lengthy external trips due to the project's location at the urban fringe of the Bay Area. Also, it is doubtful that local transit agencies will have the resources to serve even the densest areas of such a remote project. Attempts to balance jobs and housing are often overly optimistic because of the many reasons people choose not to live near where they work. To clarify this issue, the Final EIR should project the number of Cowell Ranch residents who will work outside the site and, conversely, the number of jobs that will be filled by non-local residents. The Final EIR should also discuss

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COMMUNITY
DEVELOPMENT DEPT
SAN FRANCISCO

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55.02

ALAMEDA COUNTY
Edward R. Campbell

(Chairperson)
Greg Harper
(Secretary)
Mary King
Ben C. Taver

CONTRA COSTA COUNTY

Gayle Bishop
Paul L. Cooper
Mark DeSautier

MARIN COUNTY

Harold C. Brown, Jr.

SAN RAPHAEL COUNTY

Paul Battisti

SAN FRANCISCO COUNTY

Mabel Teng
Susan Leal

SAN MATEO COUNTY

Jerry Hill
Michael Nevin

SAN JOSE COUNTY

Randy Attaway
James T. Beall, Jr.
Tride Johnson
Gillian Moran

SAN JOAQUIN COUNTY

William Carroll

SAN BENITO COUNTY

Jim Harberson
(Vice-Chairperson)
Patricia Hillgoss

Ellen Garvey
Pollution Control Officer

the possibility that instead of creating new jobs, the project's proposed commercial development will lure employers from existing Bay Area developments that are more centrally located and better served by transit.

55.02

The proposed project conflicts with goals and policies of the County's General Plan pertaining to air quality. For example, the General Plan seeks to meet Federal air quality standards and to support efforts to reduce air pollution; as the DEIR makes clear, however, the Cowell Ranch project would have a significant and unavoidable impact on regional air quality, detracting from the extensive efforts that have been made to improve air quality in the Bay Area. The General Plan also seeks to phase development and roadway improvements to avoid congestion; the proposed project, however, will further burden an already stressed transportation system even as the County proposes widening State Route 4 and the I-580 Freeway and building the State Route 4 Bypass—at considerable monetary and environmental cost—to simply relieve current unacceptable conditions.

55.03

BAAQMD staff firmly believe that the Bay Area's urban fringe is an inappropriate location for the level of development proposed for Cowell Ranch. Instead, we encourage the County to accommodate growth by facilitating infill development in the County's existing communities. Scarce transportation and public-facilities investments would be better spent channeling growth to downtowns and other existing employment and commercial centers, and along transit corridors, where development would be less reliant on automobiles. In one example, several of the County's BART stations are ripe for mixed-use, pedestrian-oriented developments of moderate density that would allow people to live near transit, and within walking or biking distance of frequent destinations. The approval of projects like Cowell Ranch eliminates much of the incentive to take advantage of infill opportunities.

The Land Use section of the DEIR mentions that the neighboring Unimin Kellogg Creek Sand Quarry could cause both noise and dust nuisances for project residents; the DEIR, however, only evaluates the noise impacts. We request that the Final EIR analyze the impacts of dust on future project residents from the quarry and, if necessary, offer adequate mitigation measures. The same should be done for agricultural operations to the northeast of the project site.

55.04

The statement on page IV.C-1 that reads "Pending and anticipated future growth will require more capacity in the SR 4 corridor" should be revised. We suggest ending the sentence with "and/or aggressive travel demand management" to reflect the fact that capacity increases are only one way to mitigate traffic congestion. Finally, the travel demand management (TDM) measures proposed in Mitigation T-1 should include a comprehensive list of bicycle and pedestrian facilities, shuttle service to downtown Brentwood, and a parking cashout policy for all Cowell Ranch employers; cashouts for new developments should be accompanied with a reduction in parking requirements, as facilitated by State law, to make them economically viable for employers (see California Health and Safety Code Section 65089). Studies have shown measures that manage the demand of parking to be most effective in increasing TDM program participation.

55.05

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Unless air quality impacts can be fully mitigated, we urge the County to reject the proposed project in favor of the No General Plan Amendment Alternative, and to make a

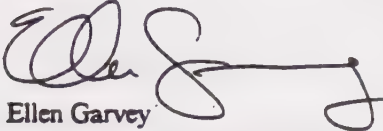
55.07

January 13, 1997

commitment to accommodate growth through infill development. As the Cowell Ranch DEIR makes clear, eastern Contra Costa County will continue to be plagued with some of the region's most unhealthful air, as well as frustrating congestion and diminishing open space, if conventional development patterns are continued. If you have any questions regarding these comments, please call Niko Letunic, Environmental Planner on my staff, at (415) 749-5170.

55.07

Sincerely,



Ellen Garvey
Air Pollution Control Officer

EG:NL

cc: BAAQMD Director Paul L. Cooper
Gary Binger, Association of Bay Area Governments
Marc Roddin, Metropolitan Transportation Commission

Verna Cakebread Kruse
2736 Courtland Dr.
Concord, Calif, 94520
Jan 4, 1997

97 JAN 13 AM 9:59

Community Dev. Dept.
Re. Cowell Ranch Development

Our family has owned over 1,000 acres in the Marsh Creek area for over 100 years at the corner of Marsh Ck. Road & Deer Valley Road, dry farming and cattle raising--The county wants to force us into an Agriculture Preserve and on the other side of our fence, Cowellis is to develop a tremendous area of 5,000 houses!!!#?!

I-Horrendous impact of TRAFFIC on ALL East Co. and East Bay roads, highways, freeways All overcrowded!

a-numerous accidents on Deer Valley Rd. and Marsh Creek Road-fatalities ever increasing.

b-trucks drive off the roads into our fields and orchards purposely destroying crops, cutting fences, motorcycling over our hills shooting at cattle and wild life and endangered birds.

II-Commuters and Population OVERLOAD!

a- impact of increased population with Cowell being largest housing project proposed in Est. Co. "A sensible alternative to suburban sprawl"- what else would you call it*%!!?

b-being on wrong side of Cowell fence and congestion, our land, creek, wooded hills, bridge, barns would be a big attraction for the young and restless!

c-our experience with the Marsh Creek trailor park has resulted in our barns being burned, vandalism to water supply for cattle, tanks and pumps, fences destroyed, trespassing, sewage and garbage put into the creek, shooting on our property. to mention a few problems - combining condensed population and ranches.

WHO will monitor and protect our rights? County sheriffs? Certainly not the police and fire depts needed by Cowell Project! --Result more county TAXES for adjoining property owners.

III-Who would be responsible for FLOOD CONTROL? Managing the wetlands? What TOXICS will be found in old dumpsite off Concord Ave.?

What are drainage plans for ditches and wells on Boriones? Where is water runoff going from the hills? What is to be done with historic Marsh Home as it deteriorates-Cowell foundation said they would help preservation. What will happen to the Mercury in the Marsh reservoir?--become a swimming area????!

THE COWELL RANCH SHOULD NEVER BE ALLOWED TO DEVELOP The transportation, commuter problems should be solved as well as problems of schools and infrastructure and WATER BEFORE we have any further development and increase in local Population!

56.01

56.02

56.03

56.04

56.05

56.06

Verna Cakebread Kruse
685-5177

DEPARTMENT OF PARKS AND RECREATION

y Area District - Diablo Sector
Mitchell Canyon Road
ayton, California 94517
(0) 673-2891

January 16, 1997

COMMUNITY
DEVELOPMENT DEPT

97 JAN 22 PM 2:35

CORRIRA COSIA

Community Development Department
County Administration Building
651 Pine Street
4th Floor, North Wing
Martinez, California 94553-0095

Subject: Draft Environmental Impact Report
Cowell Ranch General Plan Amendment
Rezoning and related Entitlements
County File #1-92-CO, Rezoning #RZ 933014

The California Department of Parks and Recreation has reviewed the Draft Environmental Impact Report (DEIR). The Department is a trustee agency, as defined in Section 15386 of the California Code of Regulations (State CEQA Guidelines), and is a responsible agency whose approval will be required for the construction of the Cowell Parkway through the State Park System property at the John Marsh House. The proposed project will have significant impacts on the historic John Marsh House. We have the following comments on the DEIR.

Planning and Development at John Marsh House

The influx of 13,076 people in the area will require development of the John Marsh site to accommodate the demand for recreational facilities or, at least, providing security for the property.

Mitigation PF-17 (page IV.F-71) requires the project applicant to coordinate the community park design with the State's restoration and development program. As noted in a previous chapter, the department has no plan or development program for the John Marsh House at this time. The project commits the Department to initiate a planning process and development program for which it has no funds. Not being able to proceed with planning and development will cause a serious impact on the park resources. The DEIR does not provide mitigation for either impact.

57.01

Surrounding Land Use at John Marsh House

The land use surrounding the John Marsh House will change from rural to urban. One of the significant historic characteristics of the John Marsh House is the contrast of the

57.02

mansion to its rural setting which is indicative of the history of Marsh building his dream in the wilderness. Disturbances by the surrounding development that (1) are within the viewshed of the Marsh House, (2) contribute noise of traffic and urban uses, and (3) alter the sense of place have not been addressed in the DEIR.

57.02

Visual Impact From John Marsh House

The DEIR addresses the State Park System unit as a visual resource but does not address the visual impact of the development to the John Marsh House.

Figure 59 which considers topography of visual significance should consider significant views from the John Marsh House.

No information has been offered as to the visual qualities of the development other than a general statement of quality of design "Development ... shall have compatible and high quality design ...". The height of structures should be identified in this plan along with the visual impact of those structures from the State Park System unit.

57.03

No discussion is made for visual barriers to mitigate the visual impacts to the State Park System unit. No discussion is made as to how potential barriers for the visual impacts could be designed and maintained.

Cowell Parkway Impact

The proposed alignment of the development's major thoroughfare, Cowell Parkway, requires transfer of ownership of several acres of State Park System property (within 150 feet of the John Marsh House, the prime historic resource) to the Cowell Foundation and, ultimately, the County.

57.04

The loss of this property is a significant impact which will alter both the setting and character of the park and the prime cultural resources. There could also be significant loss of undiscovered historic resources near the John Marsh House.

Marsh Adobe

The earlier Marsh Adobe site has not been discovered but lies within the project area, potentially on the Cowell Ranch property.

If the location of the adobe were to be discovered during construction it would be a significant impact on the history of the site and potentially impact the location of development. A serious search has never been done for the Marsh Adobe.

57.05

Restoration of the John Marsh House

The Principles and Guidelines for Cowell Ranch adopted by the Contra Costa Board of Supervisors states that the Cowell Ranch development should include a comprehensive restoration and development program for the John Marsh House. This directive does not include any specific proposals for development of the park or restoration of the mansion.

57.06

To be used as mitigation, discussions should be initiated and an agreement made as to what the restoration and development program will include and how it will be funded.

Impact LU-7, Impact on John Marsh Home State Park Site

Approval of specific design studies for mitigation measures should be limited to lead and responsible agencies.

57.07

The DEIR does not provide either adequate protection of the resources or mitigation of impacts on resources of the John Marsh House and related resources potentially existing on the Cowell Development.

We would be happy to meet with you to discuss our comments and any mitigation proposals.

Sincerely,



Lawrence E. Ferri
Park Superintendent



CONTRA COSTA

MT. DIABLO AUDUBON SOCIETY

P.O. BOX 53

WALNUT CREEK, CALIFORNIA 94596

97 JAN 22 PM 2:44

17 January 129997

COMMUNITY
DEVELOPMENT DEPT

Mr. Harvey Bragdon, Director
Community Development Dept.
Contra Costa County

Dear Sir:RE:Cowell Ranch et al

Firstly, it is regrettable that a project of this size and scope should have progressed to this stage without any consultation, discussion etc., with organizations such as the Audubon Society.

Secondly: We attempted to appear at one of the public hearings but could not so do as the hearing officer refused to hear presentations from individuals after a certain point.

URBAN LIMIT LINE:The project, as covered in the EIR cannot go forward without a modification of the urban limit line. The urban limit line was drawn as a result of a vote of the people. Provisions for changing the line require a vote of 4 out of 5 supervisors. So, changes in the Urban limit line cannot (and should not) be easily made

If the Urban Limit line is changed for this project, there are literally hundreds of other land owners who have interests in changing the urban Limit line. Land speculation, which was rampant prior to establishment of the Urban Limit Line will again occur. Development projects throughout the county will be proposed, based on some changing of the Urban Limit line. There is NO pressing need for a change in the Urban Limit line. Housing stock and approved housing development, particularly in eastern Contra Costa County are more than adequate to meet foreseeable needs.

POPULATION:The EIR demonstrates the proposed project will result in significant population increases. Such increase would be far beyond those provided for in the General Plan and ABAG projections. This will overtax ALL services such as sewer, electrical, police and fire protections, schools, traffic on essentially all roads in eastern Contra Costa County.

The EIR points out that LU4 impacts will require "substantial reduction and other basic modifications to the development program proposed for the project site, including possible elimination of the village core concept, in order to provide a stronger, more integrated relationship between the project and the adjacent Brentwood community"

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JOHN MARSH HOME: The project proposes extension of a major roadway through the northern portion of John Marsh State Park. as well as closing the entry to the park area from the south. The John Marsh State Park is a historic site. It is simply not acceptable to intrude on the park as proposed. Further, proposed mitigation's are unacceptable.

58.06

SEWER SYSTEM:Sewage disposal facilities available for Brentwood are presently inadequate. Adding this project to any existing system isn't a feasible option. This must dictate an "on-site" sewage disposal system, which MUST include a state of the art sewage treatment facility.

58.07

AGRICULTURE:The project will have substantial adverse impacts on agriculture throughout eastern Contra Costa County. Impacts of the large additional population will cause some agricultural activity to cease. Impacts of humans on existing agricultural activity will prove to be unacceptable. There is essentially no mitigation for the conditions that will be created.

58.08

TRANSPORTATION:East county roadways are already overtaxed. As the EIR points out, "the project would cause conditions which exceed traffic level of service standards at numerous offsite roadway links and intersections...."Based on the EIR itself these unsatisfactory conditions will exist well into the next century.

Further, the demands for additional roadways will be exacerbated. Costs to taxpayers for additional roads will be substantial. Note suggested mitigation for cumulative degradation of level of service on Balfour road in the vicinity of State Route 4 bypass.

58.09

The EIR describes adverse impacts on various roads, roadways and traffic systems. The impacts are not short term, but long term and will grow as the project nears completion with more and more people moving about in the general area.

PEDESTRIAN IMPACTS:Inadequate planning leaves pedestrians at risk, if the project is permitted.

58.10

STREET STANDARDS:The EIR points out. ("TAhe prject would not meet "a) County or City of Brentwood standards for local non-urban streel right-of-way widths, (b) the City of Brentwood standards for local urban street width, (c) the /City of Brentwood, standard for non-urban collector street width, (d) the City of Brentwood standard for arterial street right-of-way width, and (e) the County standard for arterial streel lane width".

58.11

TRANSIT SERVICE:Clearly, the project will require additional public transit services. If that service is supplied by busses, the impacts on the roads and highways will exacerbated. There is NO assurance or provision for high speed rail transit. If the project goes forward as is, costs of acquiring rights of way for rail service will be increased to the point where implementation of such service would not be financially feasible.

58.12

GRADING ON SLOPES AND HILLSIDES:Based on the EIR itself the project planning has not given sufficient attention to adverse results of cutting and filling hills, depressions etc.. As is the case throughout the County, deep cuts in hillsides are constantly failing. The Developer who implemented the design is long gone. The home owners are then faced with losses of substantial proportions. The County MUST NOT permit such a situation to occur here. Under GEOLOGY, the EIR lists 14 defects with the proposed soil handling of the project.. Those 14 points predict massive earth movements because of the nature of the soils in the area and the ways in which the project proposes to deal with such conditions.

58.13

FLOOD CONTROL:Clearly the project, as designed does NOT provide for "run off" of waters, diverted as a result of the large scale development in the area. This portends flooding from Kellog Creek and Marsh Creek. This past month has seen conditions created by inadequate preparation for water control when massive development is permitted. The County MUST NOT permit such a situation to occur. The EIR lists at least 10 adverse impacts that will be created in water run-off, which means flooding and damage ,

58.14

FACILITIES AND SERVICES: Treated water supply:: We have commented on water supply supra, however the EIR points out that "A supply of treated water does not currently exist.....". A number of deficiencies exist involving water supply and services.. Obtaining quality water supply will be a major limiting factor in development throughout California . his project exacerbates existing limitations. Property owners would be at risk in future.

58.15

POLICE, FIRE AND SHERIFF SERVICES: The area is presently and has been rural, agricultural in nature, thus fire and police services required, were minimal in nature. Every such service would require additional personnel, additional facilities and equipment. The cost will be VERY substantial and should NOT be born by the taxpayers throughout the county. It will be the obligation of the project to provide and pay for such services.

58.16

PARKS; Eastern Contra Costa County is and has been essentially rural in character. Parks are only now beginning to be created. This project will require additional facilities or demands on existing parks will increase to the point where the parks will not be able to handle public needs and demands.

58.17

SCHOOLS: The EIR indicates present plans may not fully fund necessary educational facilities. The project must not go forward unless and/or until adequate funding is "in-hand" to cover all educational costs. Furthermore, as developed in the EIR the cumulative impacts of this project and others in the area would contribute to the cumulative needs for additional elementary school capacity in the area. There is no Plan to cover costs for such needs.

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SCHOOL SITING IMPACTS:"The----school sites proposed by the project would not meet the school site selection standards established by the State Department of Education".

58.19

BIOLOGICAL: The project proposes destruction of 2 8.5 acres of wetlands. There is no adequate coverage of existing wildlife, plant and bird life habiting the wetland. A detailed study must be made of such and all requirements of the California Department of Fish & Game, US Fish & wildlife Service must be adhered to. Such requirements will probably make destruction of wetlands infeasible.

58.20

Several plant species are deemed to be of "special status". These species have been a unique character and are a part of our heritage and should not be destroyed for this project. ..

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The EIR points out that the project would require destruction of 67 "ordinance size" trees. These are blue oaks and valley oaks.

58.22

KIT FOX HABITAT: This species is federally listed as endangered and state listed as a threatened species. Loss of habitat, degradation of habitat and elimination of migratory movement would have a fatal result for the species in the area. The assessment of need to protect the species is inadequate. Comprehensive study must be undertaken to determine how and/or IF such a project can go forward without doing significant harm to the species. such studies must be paid for by the project proponent.

58.23

VERNAL POOLS, FAIRY SHRIMP: The project would eliminate such. A comprehensive study of the areas, including feasibility of change in the area must be undertaken by appropriate authorities. Vernal pools are unique and should not be destroyed.

58.24

TIGER SALAMANDER: This species is subject to being listed as endangered and as a species of special concern in the State. The project would eliminate 4.05 acres of habitat., plus 1.029 acres of ' potential terrestrial aestivation habitat for the California Tiger Salamander.

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The EIR predicts adverse impacts on burrowing owls, and other nesting raptors, as well as killing or harming other special status creatures

58.26

CONCLUSIONS

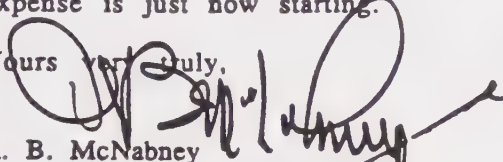
The proposed project is too large, too destructive of habitat, too destructive of wildlife and birdlife and there is essentially NO way in which the project could be redesigned so as to overcome existing difficulties.

58.27

Impacts on schools, services i.e police, fire will require huge and on going expense. Such costs should not be "passed on" to the rest of the community but would have to be born by the project itself..

It is highly regrettable the proponents of the project didn't attempt to meet and consult with organizations such as Audubon before going so far with their planning. We now arrive on a scene that the proponents hope and believe will be close to the end of the planning phase. The fact is that IF the proponents still believe the project is worthy, doable etc., the effort and expense is just now starting.

Yours very truly,


A. B. McNabney
Vice President-Conservation



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Sacramento Field Office
3310 El Camino Avenue, Suite 130
Sacramento, California 95821-6340

CONTRA COSTA

97 JAN 24 PM 3:49

COMMUNITY
DEVELOPMENT DEPT

PPN 2203
1-1-97-TA-553

January 21, 1997

James W. Cutler
Assistant Director of Comprehensive Planning
Contra Costa County Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, California 94553

Subject: Cowell Ranch General Plan Amendment Draft Environmental Impact
Report (DEIR), City of Brentwood, Contra Costa County,
California

Dear Mr. Cutler:

The U.S. Fish and Wildlife Service (Service) has reviewed the Cowell Ranch General Plan Amendment Draft Environmental Review (DEIR), dated October 18, 1996, and received on October 22, 1996. Our comments are intended to assist you in your review of the proposed project and will not take the place of any formal comments that may be required at a later date pursuant to the Fish and Wildlife Coordination Act (FWCA) or the Endangered Species Act of 1973, as amended (Act). Our comments are based on the *Draft Environmental Impact Report Cowell Ranch General Plan Amendment, Rezoning, and Related Entitlements* and the *Draft Habitat Management Plan Cowell Ranch* (DHMP) dated May 3, 1996, and received on November 25, 1996. The 30-day comment time period allowed by the California Environmental Quality Act was extended from December 2, 1996 to January 31, 1997.

PROJECT DESCRIPTION

The Cowell Ranch project (proposed project) is a proposed development for a planned residential community within the Marsh Creek Watershed located in eastern Contra Costa County. The proposed project would include the construction of 5,226 residential housing units; 1.86 million square feet of commercial and business park floor space; a 95-acre golf course; and associated recreation and institutional units, such as parks, schools, and churches. This planned community would completely surround the Marsh Creek Reservoir. In addition, the project area encompasses four waterways including Marsh, Kellogg, Dry, and Briones Creeks. The majority of the project site is currently used for cattle grazing.

GENERAL COMMENTS

The project site provides suitable habitat for animal and plant species that are listed, proposed, or candidates for listing under the Act, including the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) and longhorn fairy shrimp (*Branchinecta longiantenna*), and the federally threatened California red-legged frog (*Rana aurora draytonii*) and vernal pool fairy shrimp (*Branchinecta lynchie*). The site also contains important vegetative and aquatic communities such as blue oak woodland, valley sink scrub, great valley mixed riparian woodland, stock ponds, northern claypan vernal pools and seasonal freshwater marshes. These communities provide valuable habitats for migratory and resident birds, mammals, and other animals and plants.

59.01a

Although grasslands are not regionally scarce, they are being converted to urban uses at an alarming rate. The grasslands at the site are likely to support San Joaquin kit foxes, badgers (*Taxidea taxus*), and several species of small mammals. Small mammals also provide an important prey base for raptors in the area, including golden eagles (*Aquila chrysaetos*), merlins (*Falco columbarius*), ferruginous hawks (*Buteo regalis*) and red-tailed hawks (*Buteo jamaicensis*). In addition, numerous small birds, such as California horned larks (*Eremophila alpestris actia*), western burrowing owls (*Athene cunicularia hypugea*), and western meadowlarks (*Sturnella neglecta*) depend on grassland habitats for feeding, foraging, and nesting.

59.01a

During the rainy season, the wet meadows and seasonal wetlands provide habitat for migratory waterfowl and shorebirds. The value of the surrounding grasslands is enhanced by the presence of these wetlands. Additionally, these areas also provide water for a variety of other wildlife species that would be expected to inhabit the area, including deer, bobcats, small mammals, amphibians, and many species of resident and migratory birds.

The DEIR does not adequately address indirect impacts to fish and wildlife resources resulting from flood control measures. Four separate drainages traverse the property. Two of the four drainages are susceptible to flooding during a 100-year flood event. Flood control measures are a necessary component of the proposed project and all direct and indirect impacts that these measures cause should be thoroughly analyzed and discussed in the FEIR.

59.01

The Service's mitigation goal for wetlands is no net loss of in-kind habitat value or acreage, whichever is greater because wetlands, including riparian habitats, provide high value habitats to migratory birds and other wildlife; and they are becoming increasingly scarce in California.

Under provisions of the FWCA, the Service advises the U.S. Army Corps of Engineers (Corps) on projects involving dredging and fill activities in "waters of the United States," and special aquatic sites, which include wetlands such as those found on the proposed project site. Since the proposed project will require a Corps permit, pursuant to Section 404 of the Clean Water Act, the Service will provide comments to the Corps under FWCA authority. When reviewing Corps public notices, the Service may support projects when the following criteria are met:

59.01b

1. They are ecologically sound;
2. The least environmentally damaging reasonable alternative is selected;
3. Every reasonable effort is made to avoid or minimize damage or loss of fish and wildlife resources and uses;
4. All important recommended means and measures have been adopted, with guaranteed implementation to satisfactorily compensate for unavoidable damage or loss consistent with the appropriate mitigation goal; and
5. For wetlands and shallow water habitats, the proposed activity is clearly water dependent and there is a demonstrated public need.

The Service has also provided comments where inconsistencies were noted between the DEIR and the DHMP with respect to expected environmental impacts and mitigation recommendations. However, the Service expects that additional inconsistencies exist, and all such inconsistencies should be remedied prior to certification of the Final Environmental Impact Report (FEIR).

Sections 4(d) and 9 of the Act prohibits the "take" of any federally listed endangered species by any person subject to the jurisdiction of the United States. As defined in the Act, take means " . . . to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it kills or injures a listed species by interfering with essential behavioral patterns such as breeding, foraging, or resting. Thus, not only is a listed animal protected from activities such as hunting, but also from actions that damage or destroy its habitat. The term person is defined as "an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States."

59.01c

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required, if it is determined that the proposed project may affect a federally listed species. Such consultation would result in a biological opinion that addresses the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved with the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to Section 10(a) of the Act would need to be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be affected by the project.

SPECIFIC COMMENTS

Chapter IV.E. Drainage, Flood Control and Water Quality:

Page IV.E-3, Paragraph 4. The paragraph states that Kellogg Creek is undersized and subject to flooding. The reach from Camino Diablo to State Route 4 (SR 4) floods, on average, once every three years. This section of Kellogg Creek is adjacent to the southwest corner of the project area, which is proposed for high density residential housing. The paragraph further states that Contra Costa County has determined the need for flood protection in this portion of the creek and is currently evaluating alternatives for this protection.

59.02

Comment: The land that surrounds this section of Kellogg Creek is currently zoned for agriculture and does not require flood protection. The construction of high density residential development adjacent to this stretch of creek channel would necessitate the need for flood control to comply with FEMA's 100-year flood control requirements. Flood control measure for the Camino Diablo to SR 4 section of Kellogg Creek area an essential component of this project. Therefore, the development of flood control alternatives and their impacts to fish and wildlife species should be fully analyzed in the FEIR.

Page IV.E-19, Mitigation D-2. The DEIR simply states that the volume of runoff from the Marsh Creek watershed will increase and that the proposed construction of a detention basin and improvements to Marsh Creek Reservoir will mitigate for impacts.

59.03

Comment: The DEIR addresses the issue of mitigation for downstream channel improvements by stating that Contra Costa County will be funded by the applicant for their fair-share proportionate of improvements to the Marsh Creek watershed. The County will not be making these improvements within the

Marsh Creek drainage system, if this project is not approved and built. The increase in water volume and velocity resulting from the creation of upstream impervious surfaces would result in the need for bank stabilization downstream. Currently the most typical forms of bank stabilization is rock revetments. Should rock revetment be placed on natural stream banks downstream of the project area, then significant impacts to fish and wildlife resources would result. Downstream improvements to Marsh Creek are an interdependent and interrelated component of the proposed project. Therefore, design options for downstream flood control measures and the direct and indirect impacts to fish and wildlife resources that these measures may cause should be fully addressed within the FEIR.

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Page IV.E-22. Mitigation D-3.

Comment: This mitigation proposal is similar to Mitigation D-2 stated above. The stretch of Kellogg Creek from Camino Diablo to SR 4 is an undersized channel that floods, on average, every three years. Flood control measures will be required to rectify the frequent flooding event along this stretch of Kellogg Creek before construction of the proposed project. Flood control is an interdependent and interrelated component of the project and all direct and indirect impacts resulting from the construction of flood control structures, including impacts to fish and wildlife resources, should be fully addressed within the FEIR.

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Page IV.E-27. Mitigation D-6. The DEIR recommends that the project applicant submit for review and approval plans for flood control improvements along the reach of Dry Creek above the Dry Creek Reservoir.

Comment: Flood control improvements within the Dry Creek channel are an interdependent and interrelated part of the project and all direct and indirect impacts that may be caused by them, including impacts to fish and wildlife resources, should be fully disclosed within the FEIR and prior to Contra Costa County Flood Control approval.

59.05

Chapter IV.G. Biological Resources

Page IV.G.34-35. Mitigation BR-2. The DEIR states that all blue oaks lost to development would be replaced at a 3:1 ratio. The DEIR further states that replacement ratios for lost trees will be 3:1 for trees between 6.5 and 12 inches in diameter and 5:1 for all trees more than 12 inches in diameter.

Comment: The Service is unclear if the 3:1 and 5:1 replacement ratios also apply to non-blue oak trees? The blue oaks found on-site are mature trees ranging in height from 30 to 60 feet and measuring 18 to 60 inches in diameter. The amount of time to replace a tree of this size would be greater than 100 years. There are very few stands within California where natural recruitment of blue oaks has occurred since the 1800's (Holland 1976). Given the low success rate for natural recruitment of blue oaks into existing California populations and the length of time for replacement trees to reach sizes sufficient to replace the many benefits that wildlife species derive from them the Service recommends that all necessary steps should be taken to avoid impacts to blue oak trees. Should it be proven that avoidance is impossible, then the Service recommends that replacement ratios of 10:1 should be used to adequately compensate for temporal loss of wildlife habitat value and guarantee long-term success of replacement trees.

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The DEIR states that replacement plantings will be considered successful if 80 percent or more replacement trees survive at the end of five years. Planted blue oaks are susceptible to girdling by rodents and trampling by livestock until they reach 6 - 10 inches in diameter at breast height, which translates into 15 to 20 years of growth. Therefore, the Service recommends that

replacement planting should not be considered successful until 80 percent of the replacement trees have survived to 20 years of age.

Page IV.G-37 (b) Mitigation BR-3: The statement on page VI.G-36 of the DEIR implies that the banks of Marsh Creek are unstable.

Comment: The DEIR does not mention what baseline data was gathered (e.g., vegetation monitoring, water quality grab sampling) to demonstrate bank stabilization problems and exactly where the banks are unstable. The Service recommends that FEIR address the lack of baseline information as a starting point to demonstrate that future work activities on the banks of Marsh Creek will have a positive effect(s) on bank stability. The FEIR should indicate who will collect baseline information, perform water or vegetation data analysis, how will any analyses be performed, and what level of sampling errors will be tolerated. The FEIR needs to clearly state what success criteria will exist for any stabilization efforts. Additionally, the FEIR should state what remedial activities will occur and how and when any such work would occur.

The DHMP states that where the banks of Marsh Creek are vertical no improvements will be conducted. The Service requests clarification of this issue and how it relates to proposed bank stabilization discussed in the DEIR. The Service recommends that Applicant Proposed Measures BR-3 (b) be fully discussed in the FEIR and the Great Valley Mixed Riparian Forest section of the final Habitat Management Plan to address these concerns.

The Service is unclear of the full extent of the impacts to Marsh Creek. There appears to be conflicts between proposed flood control measures and proposed mitigation for Marsh Creek. The DEIR does not specifically state how 3,000 linear feet of Marsh Creek will be improved to handle the 100-year flow (Pg. IV.E-9, DEIR), and how those improvements will relate to the proposed restoration.

Page IV.G-37 - 39. Mitigation BR-4. The DEIR estimates a total loss of 28.5 acres of wetlands from project impacts. This includes the loss of 20.9 acres of wet meadows and 0.2 acres of northern claypan vernal pools. However, on page IV.G-9 the wet meadows are reported to contain plants and animals endemic to vernal pools.

Comment: The Service has serious concerns regarding the mitigation proposed in the DEIR and the DHMP. The DEIR states that the applicant will create 23.2 acres of seasonal pond/marsh and wet meadow habitat to replace the 20.9 acres of wet meadow, 1.2 acres of seasonal tributaries, and the 1.1 acres of seasonal freshwater marsh that will be impacted during project construction. This will amount to 1 acre of created wetland for each acre impacted. The Service recommends that mitigation ratios for wet meadow/seasonal wetlands should be at a minimum of 2 acres of on-site in-kind habitat for each acre impacted. A 2:1 replacement ratio is recommended to compensate for losses of wetlands due to failures during creation and temporal loss of wetland function and value between the time a wetland is impacted and the created wetland is fully functioning. The Service would accept a 1:1 replacement ratio for wetland creation, if all replacement wetlands are created and fully functioning before existing wetlands are impacted.

Mitigation for adverse affects on listed vernal pool species should consist of both preservation of existing high quality vernal pool habitat and creation of vernal pools. The mitigation ratios for acres of vernal pools, or the equivalent number of credits dedicated in Service-approved mitigation banks, are 2:1 preservation and 1:1 creation. Mitigation ratios for non-bank mitigation may be adjusted to approach those for banks, if the Service considers the conservation value of the non-bank mitigation area approaches

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that of Service-approved mitigation banks.

Habitat for the listed vernal pool crustacean species is considered to include any areas that seasonally pond water in which one or more of the listed vernal pool species could exist. Therefore, the DEIR-Recommended Measures is correct in stating that the mitigation ratios proposed by the applicant will require jurisdictional confirmation, and that higher ratios will likely be required (pg. IV.G-41). The DEIR proposes to replace vernal pools at a 2:1 ratio. Based upon the above mitigation ratio for vernal pools, 0.6 acres of vernal pools need to be preserved and 0.4 acres of vernal pools need to be created on-site. Areas described as wet meadows and/or seasonal marsh in the DEIR, which support vernal pool species (e.g., vernal pool fairy shrimp) require mitigation equivalent to that described above for vernal pools.

59.08

The Service has additional concerns regarding the location of the proposed mitigation for the wet meadow/seasonal pond. The proposed site is proposed to be created within the horseshoe bend upstream of Marsh Creek. The existing wet meadows currently support plants and animal endemic to vernal pools. The Service is concerned that the proposed location will not support the species currently found within the wet meadows. In order for mitigation to be meaningful, it should replace like habitat and be able to support the same suite of species as the habitat being lost.

Page IV.G-40, Stock Ponds. The DEIR states that 14 stock ponds measuring 50 to 70 feet in width by 75 to 100 feet in length would be created to replace nine stock ponds that would be impacted during project construction. If all created stock ponds measured 70 x 100 feet, then 2.25 acres of stock pond wetlands would be created. Table 58 states that 4.8 acres of stock ponds will be lost due to project impacts. Therefore, the 2.25 acres of created stock ponds would be less than half the amount of impacted stock pond acreage, thus resulting in an overall net loss of wetland habitat. The stock ponds on-site provide valuable habitats for the federally threatened California red-legged frog and special status species such as the California tiger salamander. The Service does not concur that the 0.47:1 creation to impact ratio will fully mitigate for the loss of this habitat.

59.09

Page IV.G-43. The DEIR states that one population of San Joaquin spearscale (*Atriplex joaquiniana*) and two populations of big tarplant (*Blepharizonia plumosa* ssp. *plumosa*) may be destroyed by portions of this project. Mitigation in BR-6 advises to avoid these populations, where possible.

Comment: The Service recommends that the FEIR state that, in addition to avoiding the three plant populations, an appropriate buffer be placed around the plant populations for protection against human encroachment and intrusion. The Service recommends that, if any plant populations are translocated, those populations be statistically monitored, and that the FEIR state the magnitude of change that will be detected, confidence levels, and how false change errors questions be addressed.

59.10

Although Pages IV.G-43 and 44 of the DEIR recommend that some measures be taken to monitor translocated populations of special status plants, the contingency measures suggested in the DEIR assumes that such translocations efforts will be successful. The Service recommends that the FEIR provide contingency measures for any failures of attempted translocations. The Service recommends that the applicant consult with the Service to discuss any mitigation plans proposed for special status plants.

Page IV.G-47. The DEIR states that the proposed project will result in the destruction or isolation of 16 of the 29 California ground squirrel colonies (*Spermophilus beecheyi*).

Comment: The San Joaquin kit fox is known to rely heavily upon California ground squirrels as prey and the loss of 16 colonies may severely impact kit foxes in this area. Although the DEIR and DHMP recommend eliminating pesticide use in the compensation habitat, it does not state whether such pesticide use is currently in place. If not, the remaining ground squirrel habitat may be at carrying capacity and unable to support additional ground squirrels. Therefore, the loss of 16 ground squirrel colonies may not be able to be reduced to a less-than-significant level simply by eliminating pesticide use.

59.11

Page VI.G-47. The DEIR states that the proposed closure of Marsh Creek Road south of Marsh Creek Reservoir would partially offset these impacts by eliminating vehicle traffic in the southern portion of the site.

Comment: Ms. Sheila Larsen of my staff understands from Mr. Jim Cutler of Contra Costa County Planning that the planned closure of Marsh Creek Road is predicated upon the construction of the SR 4 By-Pass. However, on page IV.C-1 of the DEIR, the construction of SR 4 By-Pass is dependent upon unsecured funds. It is the Service's policy that mitigation must be in place prior to project impacts and the Service would require guarantees that the permanent closure of Marsh Creek Road would occur during Phase I of the proposed project.

59.12

Page IV.G-47. Mitigation BR-8. The DEIR analysis indicates that an area of approximately 3,484 acres should be required to offset habitat loss to the San Joaquin kit fox. The applicant proposes to set aside a contiguous area of 2,716 acres and that the remaining acreage should be located off-site.

Comment: The Service does not concur that the entire 2,716 acres located on-site can serve as compensation for the loss of San Joaquin kit fox habitat. Figure 6 of the DEIR maps the planned open space in relation to the planned development. The Service does not believe that the open space located in the East Hills, East Village West Creek Village, North Village, and North Hills can serve as kit fox habitat or as useful wildlife corridors because the amount of disturbance that will occur from lights, noise and domestic pets will most likely discourage use by kit foxes and other wildlife. Some of the open space located in the North Hills is a golf course, surrounded by residential areas from the proposed project and crossed by proposed access roads. While the Service may consider the value of golf courses as buffers between residential homes and open space intended to be compensation lands for kit fox, the Service does not consider golf courses as kit fox habitat or particularly valuable as wildlife corridors. The open space proposed to the north of North Hills will be surrounded by the proposed project, the future Spanos Project, and traversed by Briones Valley Road (Fig. 9, DEIR). In addition, the DHMP (Figure 9, page 52) indicates that the open space on the west side of SR-4 is intended to act as corridor to the east side of SR-4 (East Creekside). Figure 6 in the DEIR indicates that East Creek side will consist of a business park and public/semi-public space (i.e., churches, civic, schools, etc.), thereby precluding use by any wildlife.

59.13

Page IV.G-48. Mitigation for Degradation of Existing Kit Fox Habitat.

Comment: There are concerns that leash laws will not be enforced due to lack of funding and personnel. The Service requests that the applicant state how the enforcement measure of leash laws will be enacted. If it is found that leash laws cannot be adequately enforced, dogs should not be allowed in the

59.14

Mr. Jim Cutler

8

open space portion of the project that has been set aside for management as kit fox habitat.

The Service recommends that red fox population control be implemented at the onset of the project. The Service is not aware of any current or planned studies that investigate the impact of red foxes on kit foxes, but believes that predation by and increased competition from red foxes has a detrimental effect on kit fox populations.

59.14

The Service also recommends that regular monitoring be implemented to determine whether grazing practices and other proposed mitigation measures are resulting in the desired habitat improvements. Conditions may change from year-to-year and if mitigation measures, particularly grazing practices, are not continually monitored, there may be degradation of habitat.

Page IV.G-48-49. Mitigations for Restriction of Migratory Movement. Please see the comment above regarding the open space with respect to wildlife movement through the proposed wildlife corridors.

59.15

Page IV.G-51. Create Artificial Den Complexes. The DEIR recommends the construction of artificial dens to replace the loss of potential burrows.

Comment: The Service does not concur that the creation of 10 artificial dens will compensate for the loss of 16 California ground squirrel colonies. Appendix F states that there were 35 sites located in the southwest and eastern portion of the sites that contained one or more potential kit fox dens. The Service is concerned about the loss of ground squirrel complexes because kit fox use ground squirrel burrow as dens. The soils in the northern range of the kit fox are very hard, and for this reason it is believed that it is difficult for kit fox to dig their own burrows and they rely heavily upon burrows made by other animals. This dependence upon ground squirrel burrows and burrows made by other species is a limiting factor in kit fox survival and reproduction. Although studies have shown that kit fox use atypical dens (e.g., pipes and culverts), only earthen dens have been found to be used for giving birth (Speigel, et al.). In addition, there has been no evidence that kit foxes utilize the artificial dens that have been created to replace kit fox dens.

59.16

Page IV.G-51. Impacts of Vernal Pool Fairy Shrimp and Longhorn Fairy Shrimp. The project applicant proposes a 2:1 replacement for shrimp habitats to be lost.

59.17

Comment: Please see comments provided for Page VI.G-37-39.

Page IV.G-53. Impact BR-10. The project will impact 4.05 acres of California tiger salamander aquatic breeding habitat and approximately 1,018.7 acres of upland habitat.

Comment: The California tiger salamander (salamander) is a Federal candidate species for listing under the Act, and the Service is seriously concerned about the loss of more than 1,000 acres of upland habitat and nine breeding ponds resulting from the proposed project. The FEIR should include the measures suggested in the DHMP. The Service strongly encourages the applicant to consult with both the Service and California Department of Fish and Game (CDFG) to develop a comprehensive habitat management plan for the salamander. The Service is also concerned over the loss of adult breeding salamanders utilizing the nine stock ponds and suggests that measures be developed to prevent such loss.

59.18

Page IV.G-54 and 55. Loss of Habitat for Other Special Status Animals. The DEIR states that the project would have a less than significant impact on

59.19

California red-legged frogs because the habitat they occupy would not be substantially affected by the project.

Comment: The DEIR elsewhere suggests that California red-legged frogs (frogs) may be impacted by the proposed project. On page IV.G--11 the DEIR states that "... suitable habitat for this species (California red-legged frog) may occur elsewhere on the site ..." On page IV.G-39 the DEIR states "... other ponds are potentially used by this species (California red-legged frogs)." On page 6 of Appendix F the DEIR states that "other (California red-legged frog) habitats of the site may also be used, particularly the pools of Marsh Creek." Appendix F also states that "... systematic night surveys for this species were not conducted ..." The impacts to wetlands described on pages IV-G-37 to IV.G--40 include the loss of nine stock ponds and some riparian habitat. Until surveys are conducted for frogs, the impacts to this species from the proposed project are unknown. The proposed project may, therefore, impact frogs. The Service considers all aquatic habitats within the project area to be potential habitat for frogs, whether or not frogs are found in a particular area in the course of a one-season survey effort.

59.19

Several flood control measures may be required within drainages located on the project site, which may have impacts on the frog that have not been identified within the DEIR. Increased runoff as discussed in the DEIR may also impact frogs. All impacts on frog resulting from flood control measures need to be fully analyzed in the FEIR.

Page 54 of the DHMP states that the spring fed stock pond where the California red-legged frogs were located as well as the adjacent stock pond shall be "fenced to protect and enhance red-legged frog habitat." The DEIR does not suggest the adoption of this mitigation as part of the proposed project. The Service recommends adopting the above DHMP measure. Other impacts, including all the various effects of urban development on frogs, should be described, and mitigation should be proposed. The applicant should note that these impacts include barriers to overland dispersal of frogs, loss of burrows that frogs are known to occasionally occupy, and the effects of children and pets. The Service recommends that the applicant contact the Service and the CDFG for assistance in creating a comprehensive management plan for frogs. Such a plan should be approved by the Service and CDFG prior to the County issuing grading permits for the proposed project.

Page IV.5-59. Cumulative Impacts. The DEIR states that approximately 1,760 acres of land have been or are under consideration for approval for urban development by the City of Brentwood.

Comment: The Service does not concur that the cumulative impacts of this proposed project have a "less than significant" impact. The Service is aware of several projects, both under consideration and under construction within the sphere of influence of the City of Brentwood, that may be San Joaquin kit fox habitat. For the majority of these projects, the City of Brentwood has not consulted with the Service to determine project impacts upon federally listed species. The Service believes that the continued unmitigated loss of wildlife habitat within the sphere of influence of the City of Brentwood is a significant cumulative impact.

59.20

The increased urban development will increase the demand for recreational use of the remaining open space. The increased recreational use will create additional disturbance to wildlife through the increased contact between wildlife and people and their domestic pets. Loose dogs may chase and kill kit foxes and increased numbers of domestic cats will reduce available prey as well as increase the likelihood of the spread of disease to wildlife. Increased recreational use will also increase the likelihood of wildfires.

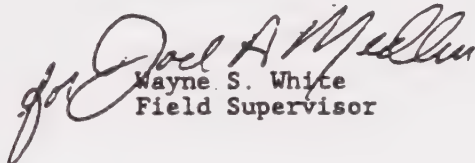
Page V-1. Alternative to the Proposed Project.

Comment: The Service believes that the preferred alternatives to the proposed project would be the "No Project Alternative," the "No General Plan Amendment Alternative" or the "Mitigated Alternative." The Mitigated Alternative would greatly reduce the biological impacts to federally listed species by increasing the amount of open space and preserving jurisdictional wetlands, vernal pools and a stock pond. Although the Service would still have concerns regarding the impact of the project on listed species, the Service strongly recommends considering the Mitigated Alternative, if the project site is to be developed.

59.21

If you have any further questions regarding these comments, please contact Jason Davis (Wetlands), Ken Fuller (Botany), and Sheila Larsen (Wildlife) at (916) 979-2725.

Sincerely,


Wayne S. White
Field Supervisor

cc: AES-Portland, OR
USFWS, SFWO, Wetlands Branch (J. Davis)
EPA, San Francisco (R. Tuden)
USACE, Sacramento (N. Haley)
USACE, San Francisco (D. Klasse)
RWQCB, Oakland
CDFG (Yountville, K. Hunting)
EBRPD (B. Olsen)
Greenbelt Alliance (T. Mooers)

LITERATURE CITED:

Holland, V.L. 1976. In defense of blue oaks. Fremontia 4:3-8.

Speigel L., Dao, T.C., and Tom, J. 1966. Characteristics of San Joaquin Kit Fox at Oil-Developed and Undeveloped Sites in Southwestern Kern County, California. California Energy Commission. pp. 131.

Jan.24, 1997

CONTRA COSTA

97 JAN 31 AM 9:38

COMMUNITY
DEVELOPMENT DEPT

Mr. Jim Cutler
Assistant Director of Comprehensive Planning
Contra Costa Co, Community Development Dept.

Dear Mr. Cutler,

I have let 2 deadlines pass by without sending you any comments about the Cowell Ranch E.I.R. I have attended one hearing and I have read newspaper coverage, and others have expressed my feelings against the development for me. However, because I feel so strongly against it, I realize I must get my opinion on record.

The following are issues in the E.I.R. which concern me most. Following the list is my discussion of these issues:

- *Loss of farmland, degradation of farming economy & area's rural character
- *Alteration of the Urban Limit Line (the will of the voters)
- *Environmental effects of "leap-frog" development

I am discouraged at the rate of suburban growth in the Brentwood area. Ten years ago, our county supervisors claimed that it was of "paramount importance" to preserve agriculture in Contra Costa County. I was hopeful that this statement was sincere, but as you can see by looking at East County today, those words were empty at best.

All of the project's shortcomings, noted in the E.I.R., are compelling. However, the loss of farmland (both by its direct removal from production and from the negative effects of adjacent suburban development on farming practices) is my number one concern. I realize you work for this county, but I hope (since your title says "comprehensive planning") that you may be aware of the larger picture of massive conversion of farmland to housing around every major town in the whole Central Valley. Individual planning decisions,

60.01



just like this one, made by local jurisdictions, exactly like yours, has helped this to happen.

We need to conserve high grade soils and preserve a sizable buffer around agriculture by keeping residential development away from the farms. The Brentwood area, with its unique blend of climate and soils, is not replaceable. Thousands of Bay Area residents who appreciate the quality and freshness of locally-grown food demonstrate their support for preserving agriculture in East County by crowding into Brentwood all summer long to buy produce! And the rural quality of life, which is impossible to quantify, is taken for granted and ignored until it is "too late". I hope it is not "too late" in this case.

60.01

The concept of "leap-frog" development has been criticized many times: big traffic problems, waste of fuel and air pollution all concern me. The Cowell Ranch Project attempts to address some of the problems of the modern world (schools, jobs, open space) which is admirable. But the cost to taxpayers of new services has not been adequately addressed (e.g. effects on highway interchanges miles from the actual development).

60.02

Please: the construction of this huge development would assure the end of (what's left of) a viable farming economy in our county. Available land for such a development is in short supply in the Bay Area, but I believe the Cowell developers should go looking for it.

Sincerely,



Lorna K. Wallace
Pleasant Hill, CA

CONTRA COSTA

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COMMUNITY
DEVELOPMENT DEPT

Mrs. Wm. L. Haisington
959 Hawthorn Drive
Lafayette, California 94549

January 26, 1997

Harvey E. Bragdon, Director
C.C.C. Community Development Dept.

Dear Mr. Bragdon:

It is widely known in the world-
wide agricultural community that
Contra Costa County has some of the
prime growing and grazing land in
the world.

Once we cover this precious land
with homes and asphalt, it is lost
to us all forever.

Let's not be so near-sighted in
our decisions. Please deny devel-
opment of Cowell Ranch.

Very truly yours,
Mary Ann Haisington
(California native)

61.01

BRENTWOOD UNION SCHOOL DISTRICT

J. DOUGLAS ADAMS, SUPERINTENDENT
255 GUTHRIE LANE • BRENTWOOD, CALIFORNIA 94513
(510) 634-1168 • FAX (510) 634-8583

BRENTWOOD SCHOOL
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GARIN SCHOOL
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RON NUNN SCHOOL
(510) 516-0131

EDNA HILL SCHOOL
(510) 634-3548

WILLIAM B. BRISTOW MIDDLE SCHOOL
(510) 516-8720

January 27, 1997

James W. Cutler
Contra Costa County Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, California 94553

RE: Draft Environmental Impact Report
Cowell Ranch General Plan Amendment
Rezoning, and Related Entitlements
County File #1-92-CO, Rezoning #RZ933014

Dear Mr. Cutler,

This correspondence sets forth the comments of the Brentwood Union School District relative to the proposed Cowell Ranch General Plan Amendment (the "Project") which the area is also entirely within the boundaries of the District, within the County of Contra Costa (the "County"), and the Environmental Impact Report ("EIR") for the Project. The District is requesting that the County require the Project applicant to participate in the East Contra Costa County School Facilities Funding and Mitigation Agreement ("Mitigation Agreement") with the District to mitigate the impact of the Project on the District's school facilities prior to approval of the Project. Absent of such an executed Mitigation Agreement, the District objects to the approval of the Project on the basis that the significant environmental impacts of the Project on the District have not been addressed satisfactorily to a less-than-significant level for purposes of the California Environmental Quality Act ("CEQA"). The District further objects on the basis that approval, absent of an executed Mitigation Agreement, is inconsistent with the General Plan.

Condition of Approval

The EIR indicates that the Land Use designations proposed by the Project anticipates the development of 5,226 residential units in the Project area (EIR, Project Description, page III--42). Of this total 693 units are designated as senior multi-family residential units. This amount of development, 5,226 units, represents a significant amount of the total development that is "on the books" currently both in the County and the City of Brentwood. The EIR calculates that the Project will generate 1,598 grade level K-8 students based on the District's Student Yield factors for single and multi-family housing, allowing for the senior housing portion of the Project. The senior housing units are within the 1,979 Multiple Family Residential Low Land Use designation (EIR Project Description, page III--22 and 42). The Multiple Family Residential Low designation allows for densities of 7.5 to 11.5 units per new acre and would include single family detached housing, attached townhouses, and multiple family flats, (EIR Project Description, page III--22). Detached single family housing within this land use designation would generate students associated with the District's single family Student

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COMMUNITY
DEVELOPMENT DEPT

CONTRA COSTA

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62-02

Yield Factor not the multi-family factor. The EIR calculated all units within this land use designation would generate students associated with the District's historical multi-family yield factor, (EIR Public Facilities and Services, page IV, F79). Since by definition a portion of these units will be single family detached the EIR calculation of students generated is incorrect. If 20% of the remaining 1,286 Multiple Family Residential Low units (257 units) are single family detached units and therefore, generate students associated with that housing type then Table 50 (EIR Public Facilities and Services, Page IV.F--79) should be modified to reflect that the Project will generate an additional 44 K-5 students and 18 additional 6-8 students at the time of Project build-out. The EIR concludes that the Project, based on the amount of students generated, "represents a potentially significant impact" (EIR Public Facilities and Services, page IV.F--84).

6202

The EIR further states the following mitigation of the potential significant adverse environmental impacts as a result of the Project (EIR Public Facilities and Services, page IV.F--85 and 81):

"Require the applicant to (1) comply with applicable BUSD/LUHSD impact fee requirements, and (2) as a requirement of the County's development agreement with the applicant, and as recommended in the County's Conditions for a 21st Century Community (Condition 2, page 15), to submit a project school financing and cost distribution plan, to be established prior to the recording of each subsequent final subdivision map, which demonstrates to County (or City) satisfaction that sufficient funding will be available as and when needed to construct school facilities sufficient to comply with applicable County or City policies and standards. Funding measures may include applicant participation in East Contra Costa County School Facilities Funding and Mitigation Agreement. These measures would mitigate the impact of a less-than-significant level"

6203

In this regard the District desires to emphasize the necessity to condition the approval of the Project upon full mitigation of the significant adverse environmental effects which result if the District's school facilities requirements are not met in time to meet the need, as required by the County's General Plan, Conditions for a 21st Century Community, and Principles and Guidelines for Cowell Ranch. A condition to submit a school financing and cost distribution plan is not specific and does not meet this need or requirement on behalf of the District. The County Board of Supervisors have granted approvals to development projects that contained unspecific Conditions of Approval on behalf of school districts in the East County area such as Will Service Letter requirements. Requiring a school financing and cost distribution plan is an unspecific condition. The County approved these projects on the basis that: 1) a level playing field was needed for all projects including those projects within the County's jurisdiction and the City of Brentwood's jurisdiction, and 2) the District had not formulated a specific agreement with the development community for which the County could specifically refer to and include as a Condition of Approval requirement. The District has provided a Mitigation Agreement that

allows each developer flexibility in mitigation payments, provides a level playing field for those developments in the County and the City of Brentwood, and is executed by individuals or organizations representing 6,000 units. The District has met and satisfied the concerns for which the County previously had approved projects without requiring full mitigation.

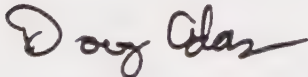
In order to fully mitigate the impacts from the Project the District requests that the County's Condition of Approval require the applicant to enter into the District's existing Mitigation Agreement.

It should be noted that Government Code Section 65300.5, requires a finding of consistency between a project and the General Plan. In order to fully mitigate the impact as a result of the Project the District requests that the applicant join the Mitigation Agreement with other City of Brentwood and County developments and provide for an onsite future school site.

In the event that new legislation changes the ability of the County to Condition the Approval of the Project to enter the District's existing Mitigation Agreement, another form of mitigation must be obtained. Until alternative mitigation has been resolved between the District and the Project, the District requests that the County not permit the Project to proceed.

I would be pleased to answer any questions you may have and provide further information if required.

Sincerely,



J. Douglas Adams
Superintendent

62.03

CC: Laird Neuhart, Land Planning Consultants

January 27, 1997

97 FEB 26 PM 4: 25

COMMUNITY
DEVELOPMENT DEPT

Contra Costa County
Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, California 94553

RE: Proposed Cowell Ranch Project Draft EIR Comments
(County File #1-92-CO, Rezoning #RZ933014)

Dear Contra Costa County Community Development Department:

GENERAL COMMENTS

- NO FISCAL ANALYSIS that could later be used to approve or deny the project.

The Draft EIR (DEIR) for the proposed project DOES NOT include the FISCAL IMPACTS of the proposed project (See Page IV.F-1, paragraph 2.), even in the many cases where the DEIR proposes future studies to identify mitigations (see comments below).

63.01

Without information in the DEIR on the ECONOMIC FEASIBILITY of the proposed Cowell Ranch mitigations identified in the DEIR or in the FUTURE STUDIES proposed in the DEIR's recommended mitigations, DECISION MAKERS DO NOT HAVE a COMPLETE and ADEQUATE PICTURE of the feasibility of the mitigations proposed.

- How did the DEIR arrive at the assumption (conclusions) that individual mitigations identified in future studies are both economically and environmentally feasible?
- Please specify what assumptions were made in determining that the individual mitigations identified in the DEIR were both economically and environmentally feasible and sufficient to mitigate adverse environmental impacts of the proposed project, and how were those assumptions justified.
- How did the DEIR arrive at the assumption (conclusions) that as a group the mitigations identified in future studies are both economically and environmentally feasible? Please specify what assumptions were made, and how they were justified.
- Please specify what assumptions were made in determining that the individual mitigations identified in the DEIR were both economically and environmentally feasible and sufficient to mitigate adverse environmental impacts of the entire project, and how were those assumptions justified?

63.02

23 DETAILED COMMENTS

1. GENERAL PLAN CONSISTENCY

- Does the Contra Costa County's General Plan require or have a guideline that new communities pay their own way, i.e., not create a fiscal burden on existing residents?
- If so, how does this proposal/EIR meet that planning requirement?
- Does Brentwood's General Plan require or have a guideline that new communities pay their own way, i.e., not create a fiscal burden on existing residents?
- If so, how does this proposal/EIR meet that planning requirement?

63.03

2. EIR ADEQUACY and FUTURE STUDIES

A decision-making body has a duty to comply with CEQA Guidelines, section 15004 that requires completion of a legally adequate EIR before a project commences. The DEIR for Cowell Ranch identifies a very large number (142) of significant adverse impacts.

Mitigations for a sizable number of those impacts may or may not be either environmentally or economically feasible. In cases where the proposed mitigation is a future study, NO INFORMATION is provided on whether the mitigation is in fact feasible environmentally or economically.

63.04

Failure to adequately identify and evaluate the cost of mitigations to the city and/or county could result in additional economic burdens on these jurisdictions.

California case law makes it clear that 'future studies' are not appropriate as mitigation, and that all studies should be available to decision makers and the public at the time the decision is made. See National Heritage Project vs. County of Stanislaus (1996) ___ See CAL.APP. 4th ___ (96 Daily Journal DAR 9721, August 12, 1996)

Why are the 'future studies' proposed in this DEIR as mitigations assumed to be adequate?

63.05

Decision makers need to have complete information before approval or denial of the proposal is made. How can decision makers be certain that the results of all these 'future studies' for the proposed Cowell Ranch project will show that the impacts are possible to mitigate as the Draft EIR appears to assume or that they can be economically mitigated?

The lack of a FISCAL ANALYSIS to go with the review of the EIR and the numerous mitigations that have fiscal impacts suggests that the EIR is incomplete with respect to providing decision makers an adequate picture of the proposal and argues in favor of extending the comment period to include comments on both the estimated fiscal impacts of the proposed project and mitigations and on the DEIR.

63.06

- To be useful to all parties and provide a complete set of information, both the Draft EIR and the Fiscal Analysis should have been distributed simultaneously to all interested parties.

3. LACK of INFORMATION ON CAPITAL AND OPERATING COSTS

In reviewing and analyzing the proposed project and mitigations, it is very important to be aware of what information is missing:

- The proposed Cowell Ranch Draft EIR has not evaluated the costs to either the County or the City of:
 - On going costs of operating and staffing two on-site fire stations
 - On going costs of operating and staffing an on-site police substation
 - Providing a level of emergency medical services described in mitigations
 - Providing a level of police services described in mitigations
- Without this information the EIR can not provide a complete and adequate picture of the feasibility of the mitigations proposed.

63.07

If costs of providing public services exceed the tax and fee revenues from the proposed project, as is often the case for new developments, (Reference: "Many cities have found that the cost of providing services to new subdivisions exceeds the tax revenue that they generate." *San Francisco Chronicle*, 'Rio Vista Braces for Boom', 8-25-1994 (or *Los Angeles Times*, 'Bill Would Tie Development to Water', 8-8-94.), then approval of a proposed project also would create an adverse fiscal impact. See also: "Beyond Sprawl: New Patterns of Growth to Fit the New California," *Bank of America, California Resources Agency, et al*, January 1995. See page 5, the Cost of Sprawl:

63.08

"The cost and consequences of sprawl have been documented among academicians and planning experts for more than two decades. In the early 1970s, planning consultants Lawrence Livingston and John Blayney produced a landmark study showing that in some cases, a California community would be better off financially if it used a combination of zoning and land acquisition instead of permitting development of low-density subdivisions. A few years later, the U.S. Council on Environmental Quality produced its landmark report, *The Cost of Sprawl*—the first comprehensive analysis of sprawl's true expense to society. As fiscal and cost-

benefit analysis techniques have become more refined, the true cost of sprawl has become much more apparent."

- **CLEARLY, given the costs associated with sprawl and this project's many SIGNIFICANT UNAVOIDABLE IMPACTS (see Summary) related to the project's 'sprawling nature,' THE FISCAL ANALYSIS SHOULD BE COMPLETED AS PART OF THE PUBLIC HEARING AND REVIEW PROCESS ALONG WITH THE EIR, IT MUST NOT WAIT UNTIL A LATER DATE.**

4. FISCAL ANALYSIS REPORT

On page IV.F-1, Public Facilities and Services, paragraph 2, the DEIR states:

"The fiscal effects of the proposed project are not identified in this EIR. As permitted under the California Environmental Quality Act (CEQA), the fiscal effects of the project are being evaluated separately by the County, City and applicant, independent of the EIR Process."

- When will the results of the fiscal analysis be available for review by the general public?
- Will the fiscal analysis be available for review and public comment during the Draft EIR review period?
- Will the fiscal analysis be available to the public and decision makers (Planning Commissions, Board of Supervisors and/or City Councils) during the review and public hearing process?

Are the DEIR consultants preparing an 'independent' analysis (i.e., independent of the applicant) of the fiscal effects of the proposed project?

What fiscal analysis is being prepared 'independently' by the City? by the County?

What part of the fiscal analysis is being supplied by the applicant?

When will these fiscal analysis documents/ reports be available for public review?

5. RELIANCE on FUTURE STUDIES

The Draft EIR (page II-29) cites a mitigation for Impact PF-7, "Require the applicant to prepare a Public Services and Facilities Plan (PSFP) that specifies funding for and phasing of adequate police services and facilities..." Similar impacts and mitigations are identified

or may be applicable in sections PF-8, PF-10, PF-11, PF-12, PF-14, PF-18, PF-19, PF-20, PF-21 that deal with the funding and provision of public services like police, fire, emergency services, parks and schools.

- Please explain why this part of the Fiscal Analysis was not included in the Draft EIR, when fiscal impacts and funding issues are described as part of proposed mitigations?

- The use of 'future studies' that may not be available to the public and decision makers during the public review process applies not only to the lack of a FISCAL ANALYSIS, but to other areas of the EIR as well. (See general comments above.)

Below is a list of several examples of mitigations (citing 'future studies') described in the DEIR to attempt to mitigate significantly adverse environmental impacts of the proposed project.

- For example, the Mitigation Measures proposed for John Marsh Home State Park. This mitigation recommends the preparation of "...specific design studies for the project/state park relationship..." (Summary, Page II--6, Impact LU-7, Mitigation Measures).

- In the section on Soils and Geology, a number of studies are recommended as mitigations.

- Please describe the study and explain what happens if it is not possible to mitigate the impacts?
- What assumptions are made about the geology and soils have been for the DEIR to reach the conclusion that the mitigations are environmentally sound and fiscally possible?
- In January 1997 Contra Costa County was, by Presidential proclamation, declared a flood disaster area. Numerous landslides damaged public and private facilities.

- For example, what costs did the county incur to repair slide damaged county roads and streets in 1997.

- Impact on Kellog Creek, (D-3). (Summary, p. II-25.) How will the appropriate fees be determined and fair share costs be determined without an accompanying fiscal analysis? What assumptions are the mitigations proposed in the DEIR based upon?

6. MITIGATIONS REQUIRING UNSPECIFIED FUNDING for PUBLIC SERVICES

WITHOUT a FISCAL ANALYSIS the Draft EIR does not make it clear in the discussions of funding for public services pp. 27-37 what is meant by "funding" as described in mitigations:

- Please address the following questions regarding 'funding' described in the DEIR:
 - Does funding cover all capital costs of land, buildings and equipment?
 - What will infrastructure costs be covered?
 - Have the costs of building the police substation and two fire stations been estimated? Have the annual operating costs been estimated?
 - Who pays to build the three schools? Has the cost of building the schools been estimated? Have the annual cost of operating the schools been estimated?
 - What specific Mello-Roos Districts are being proposed?
 - Does funding cover all operating costs of providing public services?
 - How will the capital and ongoing costs of the proposed sewage treatment facilities be covered?

63.14

7. OTHER COSTS & BENEFITS

How will the Fiscal Analysis treat other costs and benefits?

- These costs are especially important for proposed projects like this one that are located outside of the Urban Area, because such areas typically have higher costs associated with their location away from existing infrastructure and services.

63.15

Please explain how other costs will be treated:

- Cost of off-site road maintenance as a result of increased use of existing city and county roads by the estimated 13,000 plus proposed residents.
- Cost of libraries, parks and recreation, local governance.

- How are revenues estimated? Per capita? Population? City demographics? What assumptions were used?

63.15

- Please identify the revenues and expenses and potential liability of the proposed on-site sewage treatment plant. What party/parties would be liable if the plant were to fail?

63.16

8. INFRASTRUCTURE COSTS are UNIDENTIFIED

This proposal requires creation an infrastructure system (public services, roads, water, sewage, waste, libraries, parks and governmental facilities) to support the proposed project and the thousands of residents that are proposed to live and work there.

- What party will pay for the new infrastructure?
 - Applicant?
 - City of Brentwood?
 - Contra Costa County?
 - Future Mello-Roos District residents
- What is the estimated cost of the necessary infrastructure for a city of 13,000+ or for the proposed Cowell Ranch project?
- What level of bonded indebtedness might be required for the proposed development?
- What supplemental property tax rate might be necessary to cover the infrastructure costs and repay bonds required to pay for new infrastructure requirements.

63.17

9. WHAT ARE THE FISCAL IMPACTS TODAY AND TOMORROW?

The Draft EIR provides no sense of the costs and benefits of the proposed project over time, say in the initial years, at 5, 10, 20 and 30 years or at build out. Without a sense of the impacts overtime it is impossible to estimate the cumulative fiscal impact of the project.

- A project of this magnitude, requiring new police, fire, park and schooled facilities could generate substantial NET COSTS OVER TIME. This is especially true in the Proposition 13 environment where public revenues are constrained relative to costs and with the recent passage of Proposition 218 that limits the use of assessments and fees to support public services like street maintenance, parks and libraries.
- Will the fiscal analysis incorporate the funding restrictions associated with Propositions 13 and 218?

63.18

10. POPULATION ESTIMATES used in the DEIR

Please provide more information about what demographics were used to generate both the estimated number of residents and the average number of residents per household for the proposed project. The results of the fiscal analysis may be very sensitive to the estimated number of residents in the proposed project.

- Are these off-the-cuff estimates? Are they based on comparable cities? On other new developments? On comparably sized and priced residences in the area?
 - For example, the figures used in this Draft EIRs states that only 3.2 persons will live in the 7,700 to 9,000 square foot lot single family residential medium units. Yet others, like Alameda County, in past EIRs (See Rancho Palomares, prepared by Alameda County) used figures 3.5 residents per unit for similarly sized lots.
 - Lower household size estimates would lower the population of the proposed project, and thus likely would artificially lower the estimated cost to the city or county of providing services to the project. Please explain the justification and analysis for the population estimates included in the DEIR.
- How do the estimated per capita costs and revenues of this proposal compare to other projects in Contra Costa County? to existing developments? to figures used in other studies?
- Why did the DEIR use school population estimates that are not consistent with school district experience? Underestimating the school population and the general population would both tend to underestimate the expenses the city faces as a result of the proposed project. Please justify the EIR's student and population estimates.

63.19

63.20

11. FIRE SERVICES FISCAL IMPACT:

It can be critical to decision makers.

The OMISSION of the Fiscal Analysis from the DEIR for the proposed Cowell Ranch Project could play an important role in either the approval or denial of the proposal. The Case Study of the proposed Dunsmuir Heights Project in Oakland, CA nicely illustrates this point.

The relevance of the Dunsmuir Case is illustrated by examining the treatment of Fire Protection Impacts in the DEIR for the proposed Cowell Ranch:

63.21

- For example, proposed Cowell Ranch Impact PF-11: Fire Protection and EMS Response Impacts. These impacts requires two on-site fire stations, additional staff and equipment to be mitigated to the Less than Significant Level according to the DEIR.

Proposed COWELL RANCH: NO ANALYSIS of the Fiscal Impacts of providing Fire and EMS services is provided in the Draft EIR. This can be an important factor in the approval or denial of a proposed project. (Please refer to the attached article and description below concerning the fiscal impacts of the proposed Dunsmuir Heights Project (City of Oakland, CA, 1988-1993).

DUNSMUIR HEIGHTS FISCAL IMPACTS: A CASE STUDY

- According to the Draft (DEIR) and Revised Draft (RDEIR) EIRs for the Dunsmuir Heights (Dunsmuir) proposal, the proposed 507 unit project would have generated up to \$500,000 in net revenues for the City of Oakland each year.
- Therefore, one critical **OVERRIDING CONSIDERATION** for **APPROVAL** (prepared by Oakland staff) of the proposed Dunsmuir project (despite its many significant adverse impacts, not unlike the Cowell Ranch proposal) was the estimated revenues the Revised Draft EIR claimed the project would generate annually.
- The **FISCAL IMPACT** of **MITIGATIONS** on the **PROJECT'S FISCAL VIABILITY** played an important part in the eventual approval/denial process for the project. The Dunsmuir RDEIR did not recommend the reopening a nearby closed fire station as a mitigation for inadequate fire and emergency service impacts,. The RDEIR rejected the reopened fire station as mitigation on the grounds that it was not economically feasible (too expensive) and that other mitigations were considered adequate by the RDEIR consultants.
- The City of Oakland's fire department disagreed with the RDEIR recommendation. The fire department recommended that it was necessary to reopen an existing fire station near the Dunsmuir site as mitigation in order to provide adequate fire and emergency services to the proposed project.
- The cost of operating the fire station was estimated by the City of Oakland to be \$1,643,854 per year. (Reference: Oakland Budget Office Report, Dunsmuir Heights Fiscal Impact Analysis, presented to the City Council, 12-10-92.)
- When the costs of opening the fire station were included in the Fiscal Analysis for the Project, the ANNUAL NET COST to the City of Oakland from approving the project would have exceeded \$1,000,000.

63.21

- In the Dunsmuir Case, the cost of adequately mitigating the adverse public service impacts would have created a large annual net financial burden to the City that was required to provide the adequate level of services.
- "The City Council voted 7-0 to reject the project, the largest, most controversial housing development proposed in Oakland in the past 25 years." *Oakland Tribune*, 10-18-94. The developers later sued the City over the denial.
- "Alameda County Superior Court Judge James R. Lambden ruled the city acted within its authority in January 1993 when it rejected the proposed development (Dunsmuir Heights), in part because of the cost of providing emergency services." *Oakland Tribune*, 10-18-94.
- "In his decision, Lambden said Oakland was not required to reopen a fire station on Grass Valley Road, 'solely to meet the adverse impacts regarding fire safety and emergency medical response created by the addition of a private development.'" *Oakland Tribune*, 10-18-94.
- In the Dunsmuir Case, the REDIR proposed mitigations were not adequate to meet the city's safety and soundness standards for public safety. However, adequate mitigation's (a new fire station) also would have cost Oakland far more than the project ever generated in revenues. Thus, the fact that the ADEQUATE MITIGATION created a large net fiscal burden for the city, was a key factor in the City Council's denial of the project.

63.21

In sharp contrast, the proposed Cowell Ranch project requires two fire stations, a police substation and three schools... yet the EIR provides no clue as to the fiscal impacts that could be used to justify either approval or denial of the proposal before decision makers.

Thank you for the opportunity to participate in the public process and comment on this proposal and EIR.

Sincerely



Gary Zimmerman
Economist

Attachment: "Court Oks Rejection of Housing,"
Oakland Tribune, October 18, 1994.

File: EIR_CR97.doc
January 27, 1997

Court OKs rejection of housing

Emergency services cost is key factor in decision

By Craig Staats
STAFF WRITER

OAKLAND — A Superior Court judge has upheld the City Council's denial of a controversial plan to build a large housing subdivision on scenic Dunsmuir Ridge.

Alameda County Superior Court Judge James R. Lambden ruled the city acted within its authority in January 1993 when it rejected the proposed development, in part because of the cost of providing emergency services.

The ruling came in a \$33 million lawsuit filed by Hayward Exchange Inc., which had hoped to build 341 single-family homes and townhouses on a 132-acre ridgetop, directly above Sheffield Village on the city's southern border. A coalition of environmental groups and Sheffield Village residents fiercely opposed the development.

In his decision, Lambden said Oakland was not required to reopen a fire station on Grass Valley Road "solely to meet the adverse impacts regarding fire safety and emergency medical response created by the addition of a private development."

Deputy City Attorney Ralph Wheeler, who argued the case, said the decision came on the final cause of action in the lawsuit. Last year, Lambden dismissed three of the lawsuit's four charges, which had alleged constitutional violations and improper delays in the city's review of the hilltop housing development.

"With this decision, we have a total victory from the Superior Court," Wheeler said. "Even if they (the developers) decide to appeal this matter, they have an uphill battle."

Santa Monica attorney Michael M. Berger, who represents Hayward Exchange, said he received a copy of the judge's ruling only Monday and could not speculate on whether

his clients will appeal.

"Essentially, the court has said these people can't develop their property and the city doesn't have to pay," Berger said. "The city gets what it wants — 132 acres of open space. I think there's something wrong with that result."

Earlier, Berger characterized the city's handling of the Dunsmuir Heights project as "seven years of thinly disguised efforts to misuse the planning process to turn private property into a park...."

In a parallel action, Hayward Exchange also has sued the city in federal court over the City Council's decision, but a judge dismissed the case. The developers appealed and the two sides are awaiting a date for oral arguments on the appeal, Wheeler said.

Mayor Elihu Harris praised the latest court ruling.

"I was confident that the city's position would be sustained and that our hearing process would be found to have been fair and legally sound," Harris said in a statement. "Our decision to deny the project was based on public safety concerns and was in the best interest of the neighboring community and citizens of Oakland."

The City Council voted 7-0 to reject the project, the largest, most controversial housing development proposed in Oakland in the past 25 years.

Among their reasons for the rejection, council members cited worries about fire safety, emergency access and the cost of providing city services, particularly fire protection.

The council's decision capped seven years of environmental reviews and debate on the project, which Hayward Exchange reduced in size from more than 500 units to the 341 figure.

Jan. 28, 1997

Jim Cutler, Senior Planner
Contra Costa County Administration Building, 4th Floor
651 Pine St.
Martinez, CA 94553

CORINRA COSIA

97 FEB -6 PM 2:31
COMMUNITY
DEVELOPMENT DEPT

Re: D.E.I.R., Cowell Ranch Project.

Dear Mr. Cutler,

As representative of Preserve Area Ridgeland Committee, I wish to state my concurrence with issues raised in the Greenbelt Alliance Comment Letter. I would like, however, to elaborate on the following Points:

BIOLOGICAL [KIT FOX].

The applicant will need to consult extensively with the U.S. Fish and Wildlife Service to adequately and legally mitigate for the large scale destruction of Kit Fox habitat, as well as the possibility of a direct take of the animal.

An HMP that essentially "sets aside" 2,700 acres of land already of population sustainable quality, would in actuality constitute no net gain. A 'take' situation would result. In all likelihood, compliance with federal statutes on the matter will mean about 3600 acres of currently inhospitable land, or land where it is clear there are no endemic Kit Fox, will need to be converted to (and connected with) suitable habitat. Long term management, including monitoring for successful introduction and continuance of the species, will be necessary.

64.01

The DEIR suggested mitigations are not sufficient, and the conclusion they will ensure "less than significant" impacts is in error.

VISUAL IMPACTS.

The DEIR has not properly conveyed the full extent of the Project's physical impacts to the topography and veiwsheds, nor has it presented the legal ramifications of an array of inconsistencies between this plan and requirements of the County General Plan.

In particular, those Goals and Policies generated by the voter approved Measure C (65/35) initiative, need to be evaluated relative to this projects effects on hillsides, ridges, ridgetops, etc. The County will not be at liberty to arrogate said components with its usual escape clause of "overriding considerations." All aspects of the General Plan that derive from Measure C will require a stricter degree of compliance. The question arises as to the prudence of proceeding further with a project if it is legally faulty on just this issue alone.

64.02

The EIR will need various key viewpoint overlays demonstrating vistas after build-out compared to present day vistas. This will allow for critical evaluation of visual impacts.

Also useful to proper understanding of both visual and potential legal impacts, but still lacking here, would be mapping of all slopes of 26% grade, or greater, with overlays demonstrating development impacts.

The Cowell Foundation as a Land Developer.

The Foundation appears to be in serious violation of its charter principles. Are there additional legal difficulties in this area that would again bear on the very legality of the project itself? The EIR should, at a minimum, perhaps as part of the Introduction or "Setting", address the following fundamental contradiction: a Foundation with founding goals of addressing the underlying causes of poverty and social problems, acting as a large open space/agriculture land developer, and in so doing, actually contributing to the deleterious social dynamics they portend to assuage.

64.03

For example...

SCHOOLS.

Square footage fees for schools generally fall short of generating sufficient funds to fully mitigate a particular project's impacts on schools by around 70%. As a result the surrounding communities suffer— either through added taxes to make up the difference, or degraded quality of education if these or other growth subsidizing funds are slow to materialize.

61.04

TRAFFIC.

Historically, per house fees have fallen short by as much as 90% to 95% of actual funding needed to completely alleviate the growth caused impacts to surrounding roadways/traffic systems.

Six years ago, the Contra Costa General Plan Congress estimated \$5 billion would be needed to adequately address growth demands on countywide transportation systems over a 20 year period. They also estimated about 186,000 new residents over that same time frame. This would mean about 62,000 new households. If required funding is proportioned out over the projected new housing units likely to be built, the per unit fee would be a sobering \$80,600. For the sake of argument, though literally impossible, let's place half the funding responsibility on business and industry; then the fee drops to a more "modest" \$40,300. per unit. Since typical traffic fees are in the \$2,000./u to \$4,000./u range, we are left with at least \$36,000. to as much as \$78,000. per new housing unit needed, that goes begging. Time for another regressive 1/2¢ sales tax?

61.05

These numbers speak to the very grim reality for current residents of the County's approach to growth (which includes your occasional 'Cowell Ranch'). The process virtually guarantees ongoing and long term degradation of traffic flows, and sporadic but cumulatively oppressive related tax hikes.

The DEIR does not adequately address this fundamental transportation issue.

Inner Cities Impacts.

Since older, established cities, in general, and inner cities in particular, are negatively impacted by developments such as this; the EIR should include serious examination of the issue. Perhaps focusing on the process by which 'Cowell Ranches' tend to draw economic and social vitality away from inner cities and toward the new edge/open space developments.

Compounding the problems to the general social fabric, which includes inner cities, is the tangential harm done by perpetuating the large scale destruction of open space, agricultural lands, and assorted habitats; possessing intrinsic (natural/organic) values critical to the well being of a variety of animal life — including human.

The EIR - and for that matter, the Cowell Foundation - would be well served in the pursuit of their respective responsibilities to review studies available on this subject. The American Farmland Trust has available a number of case studies that clarify the problem. The City of San Jose has recently completed one that could prove pertinent. But in particular, the '96 paper on growth done by The Greenbelt Alliance in conjunction with Bank of America is salient to the issues involved here.

The foregoing have been just 5 of an array of service, utility, economic, and environmental impacts this EIR has yet to properly address. When they and others are taken together, the question is no longer, will the Project harm both society and the environment(?) but rather, how severe will the harm be?

-Summary-

Drug lords in South America rake in billions of dollars of dirty money and then sometimes give a portion of it back to the impoverished local peasantry. Technically, if only marginally, this "charity" helps the locals. Aren't the drug lords then justified in applying for status as a foundation to promote the greater social

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64.07

good? The point being; it's not simply a matter of applying money to a given problem, but just as importantly - sometimes more so - it's appreciating the socio-economic ramifications of the process by which the money was originally obtained.

Civically astute and responsible leaders view growth in a way that revitalizes, re-enfranchizes, coordinates with, and otherwise enhances the utility of human habitat already in place. Not surprisingly, this usually entails "close in" development or re-development which, among other things, efficiently augments or directly utilizes infrastructure already in place.

Working against this reasoned approach is the profit oriented motives of large land development companies who recognize there are sometimes enormous sums of money to be made by purchasing relatively cheap open space/agricultural lands (usually far removed from established city centers), then lobbying to have them re-zoned, then subdivided. Unfortunately, not only is the land re-valuation an unproductive increase in wealth (no goods and/or services are produced by it), but it is realized by only a tiny fraction of society; the landowner/developer. Further exacerbating the the problem, the profitability of the actual building of the subdivisions is dependent on the degree to which mitigation costs are externalized onto society as a whole.

As an ALTERNATIVE meaningful to this somewhat unique situation, the EIR should propose an off site 1,200 acre plan - namely one located in a blighted inner city of our region. It would not only afford the Cowell Foundation an opportunity to act in a manner far more consistent with its charter functions, but taken in conjunction with a modified NO PROJECT ALTERNATIVE at the current site, rectify all the major negative impacts associated with the Lead Plan.

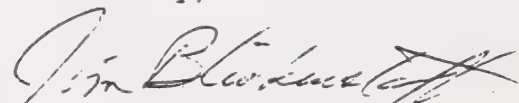
The likelihood of a less overtly monetary profit for the Cowell

64.07

Foundation should not cause trustees undue stress, since society would undoubtedly 'profit' immensely from the undertaking. After all, isn't that the point?

↑ 64.07

Sincerely,



Jim Blickenstaff, Director

Preserve Area Ridgeland Committee

cc. Parties of Interest.

January 28, 1997

97 JAN 31 AM 9:36

COMMUNITY
DEVELOPMENT DEPT



Mr. James W. Cutler
Contra Costa County
Community Development Department
651 Pine Street
4th Floor, North Wing
Martinez, CA 94553-0095

Dear Mr. Cutler:

**Re: Response to Draft Environmental Impact Report
Cowell Ranch General Plan Amendment
Rezoning and Related Entitlements
County File #1-92-CO, Rezoning #RZ933014
32L6-8034**

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed Cowell Ranch Project. Pacific Gas and Electric Company (PG&E) will provide gas and electric service to the proposed project area in accordance with the rules and tariffs of the California Public Utility Commission (CPUC). In addition, PG&E owns, maintains and operates transmission facilities located on or within the vicinity of the proposed project boundaries.

We have concerns regarding potential impacts of the proposed project on our facilities. In the following discussion, we provide information on the following utility issues: 1. The Brentwood Terminal and Compressor Station located in the proposed project vicinity; 2. Potential impacts to maintenance and operation of the existing gas transmission lines located within the proposed project boundaries; and 3. Potential impacts to maintenance and operation of the existing electric transmission lines located within the proposed project boundaries; 4. Electric and magnetic fields; and 5. Cumulative impacts of increased customer load on our gas and electric systems.

We submit the following discussion for the County's consideration. The EIR and conditions of approval for the proposed project should address any mitigation measures which may be imposed on the proposed project to ensure compatibility with PG&E's existing utility facilities. If the applicant wants to have PG&E modify its existing utility facilities in order to eliminate the need for some or all of the mitigation measures, PG&E would be willing to do so provided the modifications are feasible and the applicant pays all costs incurred. However, the proposed project's environmental review and permitting process should address any potential environmental impacts associated with any PG&E facility modifications needed to accommodate the proposed project, and adequate project lead times should be allowed for any

65.01

related engineering, permitting, and construction of utility facilities. With timely communication and proper planning, we believe our concerns can be resolved satisfactorily. We have met with the project proponent and are working with him to address these concerns.

- Comment on DEIR Text: Page 1V.N-1, Section N on Energy, should be modified to include facilities owned by PG&E. Specifically, the following comments should be added to this section:

"The applicant shall submit to PG&E for review and comment all development plans which may affect any PG&E easements or PG&E-owned land or facilities as soon as these plans are available."

"As a condition of approval for development, the County should require the applicant to obtain PG&E's written consent to any development plans which impact PG&E's easements, lands or facilities."

65.01

1. BRENTWOOD TERMINAL AND COMPRESSOR STATION

The Brentwood Terminal and Compressor Station (BT&CS) is a natural gas transmission facility of critical importance to the 3.5 million households, businesses, and industries served by PG&E. It is used to control and monitor pressures and flows on the gas transmission system and injection and withdrawal of gas stored at McDonald Island Gas Storage Field.

- Comment on DEIR Text: In numerous locations the DEIR refers to BT&CS as simply "PG&E Gas Compression Facility". These references are inaccurate and misleading. They should be changed to *"PG&E Gas Terminal and Compressor Station."*

65.02

The proposed project will introduce suburban development into a previously rural area occupied by established natural gas transmission facilities including the thirteen-acre BT&CS. As a consequence, the proposed project will expose people and property to noise, odors, and visual impacts not normally associated with planned residential development. These issues need to be addressed in the EIR and throughout the project permitting process with appropriate mitigation measures and conditions of approval in order that the proposed residential development is compatible with BT&CS. In addition, it is not clear how the proposed project or proposed Highway 4 Bypass will affect PG&E's vehicular access to BT&CS.

Noise

The predominant sources of noise at BT&CS are the gas compressors, gas cooler fans, gas regulation equipment and gas pressure relief equipment. Compressors operate when gas is being pumped into storage. The gas compressors driven by electric motors are located inside a building that partially attenuates compressor noise. Gas pressure relief equipment operates when excess pressure in the lines has to be released, when gas must be vented to clear the lines for maintenance activities, or when compressor usage is halted. Some of the gas pressure relief equipment is connected to silencers designed to reduce the noise created by the release of

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pressurized natural gas. On infrequent occasions, however, the gas pressure relief equipment creates noise well in excess of standards established by Contra Costa County and the City of Brentwood for residential land use. Because BT&CS must operate 24 hours a day, noise generated by this facility may occur at any time of day or night. We therefore recommend that this issue be studied in greater detail in the EIR.

- Comment on DEIR Text: Proximity of the development site to the SR 4 Bypass and recommended noise mitigation are addressed on pages II-54 and II-55 of the Project Summary Matrix. Similar requirements should be considered for mitigation of the proposed project's exposure to noise from BT&CS. The project applicant should be required to prepare a study on the potential impacts of noise from BT&CS and work with PG&E to develop mitigation measures. It is PG&E's position that the station is an existing land use and that any noise levels created by its operations which exceed County and City noise criteria for the proposed adjacent land uses are the responsibility of the applicant to mitigate. PG&E's sole responsibility will be to cooperate with the applicant in meeting these mitigation requirements. Funding for such measures will be provided by the applicant.

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Odor

Air Quality is not adequately addressed in any of the sections of the DEIR. We therefore recommend that this issue be studied in greater detail in the EIR. Because natural gas is odorless in its natural state, a sulfur-based odorant is added as a safety measure to permit detection of -natural gas leaks. The odorant is designed to allow the average person to detect leaks even in very small quantities. During normal operations at BT&CS, small quantities of gas are released to the atmosphere from gas-powered valve operators. On infrequent occasions, larger quantities of gas are released when pressure relief devices are activated. Although natural gas is lighter than air and disperses quickly, atmospheric conditions and wind direction can affect the extent of the area in which these releases are noticeable. Because the odorant in natural gas is highly concentrated, it may be noticeable in the area surrounding the station even at minute concentrations of gas in air. We do not know how wide an area would be affected. These concentrations of gas in air do not present a combustion hazard, and the methane emissions are within acceptable limits of current air quality standards. However, we are concerned that developing a residential community in the area surrounding our established facility would require implementing potentially costly measures to minimize the number of false alarms that PG&E and emergency response providers may receive when residents smell gas being released from BT&CS under normal operating conditions.

65.04

- Comment on DEIR Text: Page II-54 of the Project Summary Matrix and Section K, which deal with air quality issues, should address the odor created by the release of natural gas from BT&CS as well as recommended mitigation to be imposed on the proposed project.

It is PG&E's position that:

- at the present time, the constant odor does not constitute a nuisance to neighboring land uses,
- as neighboring land uses change, the odor may be perceived as a potentially significant impact by adjacent residents of the proposed project,
- there are specific measures available to minimize the odor,
- funding for such measures should be provided by the applicant,
- PG&E will cooperate in implementing these measures.

65.04

Visual Impacts

The structures and outdoor equipment occupying the thirteen-acre plant site have an industrial appearance and scale not normally found in the vicinity of planned residential communities. In addition, because BT&CS operates 24 hours a day, 7 days a week, the plant site must be illuminated at night.

65.05

- Comment on DEIR Text: **Page IV.J-54, Visual Factors Section, Mitigation V-12** should be modified to include PG&E in the review process of any setback and landscaping plans and to provide that the applicant obtain PG&E's written approval for any mitigation measures which affect PG&E's easements, fee lands, or facilities. Any setback and landscaping plans should be implemented at the applicant's expense.

Traffic/Station Access

Daily traffic in and out of BT&CS is normally limited to passenger vehicles and pickup trucks. However, when maintenance is necessary at the plant, larger, industrial type equipment and vehicles such as backhoes, cranes, and trucks and trailers carrying sections of pipe up to 40 feet long may need access to the plant. At the present time we have direct access to the plant from both directions on Concord Avenue. It is critical to plant operation that any road improvements along Concord Avenue or the proposed Highway 4 Bypass accommodate industrial type traffic and preserve continued access in and out of BT&CS from both directions.

65.06

- Comment on DEIR Text: **Page II-14, Transportation Section of the Project Summary Matrix** should reflect PG&E's need to have Concord Avenue remain a thoroughfare in order to maintain vehicle access to BT&CS from a minimum of two directions.

All impacts and recommended mitigation measures as noted above should also be incorporated into the appropriate sections of the EIR.

2. GAS TRANSMISSION LINES

Four of the natural gas transmission lines connected to BT&CS cross the proposed project area. These lines should be identified in the EIR as critical, high pressure facilities which may

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require mitigation measures beyond those recommended in the DEIR. Specifically, Line 114 is a 22-inch line operating at 595 psig which is very limited in its ability to handle additional loading either from increased fill or traffic loading. This line runs right through the center of the development. Line 131 is a 24-inch line operating at 525 psig. It is also limited in its ability to handle additional loading either from increased fill or traffic loading. Line 131 runs through the proposed development on the west side of BT&CS and is connected to BT&CS by two, 20-inch cross over lines. Line 303 is a 36-inch line operating at 793 psig and represents the primary link between BT&CS and Milpitas terminal. Line 303 enters BT&CS from the south parallel to line 114 and exits BT&CS heading to the northwest parallel to Concord Avenue. Line 2 is a 26-inch line operating at 890 psig and represents the only direct connection between BT&CS and Bethany Compressor Station. Line 2 enters BT&CS from the southeast and exits BT&CS heading northwest parallel to line 303. Due to the change in land use and increase in population density associated with the proposed project, two of the four gas lines will need to be pressure tested to confirm their operating pressure in accordance with CPUC regulations. Additional mitigation measures may be required based on pipeline specifications and operating pressure. The gas lines may require replacement following buildout of the proposed development if testing indicates their operating pressure rating for the new land use and density cannot be obtained. Furthermore, depending on details of the proposed project design and any resulting conflicts with our existing pipeline facilities, it may be necessary to replace specific sections or the entire length of all four pipelines within the proposed project area. The EIR and conditions of approval should address potential environmental impacts associated with any pipeline modifications, replacements or relocations needed to accommodate the proposed project.

65.07

To ensure that site development activities such as lot layout, grading, building placement, fencing, and landscaping do not adversely affect the safe and reliable operation of PG&E's facilities, the developers and subsequent owners should continue to coordinate all development plans with PG&E and obtain PG&E's written consent for any development plans which affect PG&E's easements and facilities. Maintenance and operation of the lines in accordance with CPUC standards require that PG&E have unrestricted access to the lines, that a minimum and maximum amount of soil cover be maintained over the lines, and that improvements within the easements be restricted. Deep rooted trees are prohibited within 10 feet of any transmission line. Construction traffic as well as permanent roads may be limited to specific crossings. PG&E considers all requests for use of its easements and fee lands on a case-by-case basis and consents to proposed uses that are compatible with its operational requirements.

PG&E's gas lines are patrolled frequently by aircraft, by vehicles and on foot. Aerial patrols check for encroachments on the right of way, as well as for leaks that may be evidenced by dead vegetation over the line. An annual leak survey is conducted on foot using a gas detector. Direct access to the line is required on occasion in order to perform leak repair or coating repair should deterioration or damage occur. Gas line replacement would require unrestricted access to the pipeline by wheeled and tracked vehicles and would require a construction working strip extending outside the existing rights of way for trenching, spoil, and pipe fabrication.

3. ELECTRIC TRANSMISSION LINES

PG&E owns, operates, and maintains 230 kV transmission lines that cross the proposed project area. CPUC regulations specify clearances that must be maintained between lines and surrounding objects. To ensure compliance with these standards, the developer and subsequent property owners should continue to coordinate development and landscaping plans with PG&E. Any proposed plans should provide for unrestricted utility access and prevent easement encroachments that might impair safe and reliable maintenance and operation of utility facilities. PG&E considers all requests for use of its easements and fee lands on a case-by-case basis and consents to proposed uses that are compatible with its operational requirements.

65.08

Electric lines are patrolled frequently by aircraft and with annual ground checks of the structures and footings. Repairs to the structures or insulators are conducted as needed using cranes and other large wheeled and tracked equipment. Insulators are washed periodically either by helicopter or by vehicle-mounted boom units. Emergency repairs and routine maintenance such as reconductoring, tower reconstruction and re-insulating generally require unrestricted vehicle access to and around the towers.

4. ELECTRIC AND MAGNETIC FIELDS

We also encourage the County to include information about the issue of electric and magnetic fields (EMF) in the DEIR. It is PG&E's policy to share information and educate people about the issue of EMF.

Electric and Magnetic Fields (EMF) exist wherever there is electricity—in appliances, homes, schools and offices, and in power lines. There is no scientific consensus on the actual health effects of EMF exposure, but it is an issue of public concern. If you have questions about EMF, please call your local PG&E office. A package of information which includes materials from the California Department of Health Services and other groups will be sent to you upon your request. Enclosed please find a copy of our EMF Bill Insert.

65.09

5. CUMULATIVE IMPACTS TO PG&E'S GAS AND ELECTRIC SYSTEMS

The proposed project will require extending gas and electric lines from outside the proposed project boundaries into the project area. Extending service to new development has cumulative impacts on PG&E's gas and electric systems and may require off-site additions and improvements to gas and electric facilities in addition to the on-site facilities that supply these services. As the City of Brentwood, Contra Costa County, and surrounding communities continue to approve new development, PG&E will have to expand system capacity to accommodate growth. The range of electric system improvements needed to accommodate continuing growth may include reconstruction, reconductoring existing facilities, installing additional distribution circuits, trenching streets and utility easements to upgrade or install underground facilities, upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations

65.10

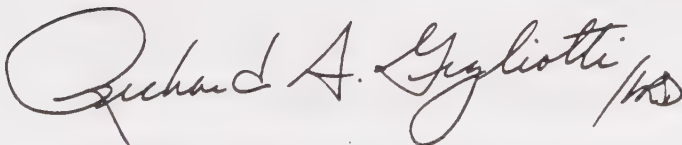
and interconnecting transmission lines. Comparable upgrades or additions needed to accommodate additional load on the gas system could include facilities such as regulator stations and valve lots and trenching streets and utility easements to install, modify, or test distribution lines and transmission lines. Extending service and expanding system capacity to accommodate new development depends on PG&E's ability to secure adequate land rights and any applicable state or federal permits needed to construct utility facilities. Obstacles to easement and corridor acquisition may be encountered from affected property owners and permitting agencies.

We recommend that environmental documents for the proposed project include adequate coverage of cumulative impacts to utility systems, the utility facilities needed to serve the proposed project, and any potential environmental issues associated with extending utility service to the proposed project. In response to the project proponent's request, PG&E will determine anticipated customer loads for the proposed project, which facilities would have capacity to serve these loads, what routes new facilities would follow from the existing facilities to the proposed project, and what system reinforcements outside the project area would be required to extend service to the proposed project.

The CPUC recently adopted a revision of General Order 131 formalizing review procedures for electric transmission facilities between 50 kV and 200 kV. The amendment, known as GO 131-D, provides opportunities for local agency review and comment within a CPUC permit process. Among PG&E transmission facilities exempted from the permit process are those which are part of a broader action by another agency which undertakes environmental review pursuant to CEQA and for which the final EIR or Negative Declaration shows no significant environmental impacts.

Thank you for your consideration of our concerns. For additional information, you may contact Leo De Long of my staff at (510)-674-6588. However, we encourage you to submit any inquiries in writing. Correspondence can be sent to Leo by fax at (510) 674-6323 or mailed to him at the address shown on the letterhead.

Sincerely,



Richard A. Gigliotti
New Business Land Supervisor

File: 8034eir1.doc

cc: City of Brentwood
Community Development Department
708 Third Street
Brentwood, CA 94513-1396

January 29, 1997

To whom it may concern:

CONTRA COSTA
COMMUNITY
DEVELOPMENT DEPT
97 MAR 19 PM 12:17

I would like to protest as strongly as possible the proposed 4200 acre Cowell Ranch development in the area outside of Brentwood.

As a lifelong resident of the eastern part of the county, I value immeasurably its diverse landscape and the cohesion of its distinctive communities. Unchecked and irresponsible suburban sprawl has already threatened both of these characteristics to a frightening degree: traffic has become almost intolerable, water quality is appalling, air pollution is increasingly severe, and the natural landscape is being completely overwhelmed. In addition to this, the uniquely rich agricultural areas-- a resource for the entire Bay Area-- are rapidly disappearing as housing tracts and shopping malls proliferate. Another large development in this region would aggravate these very serious problems, further reducing the quality of life for all the inhabitants of East County.

66.01

Old and new residents alike will benefit if we prevent rapid development from obliterating the individuality of our cities and the integrity of our environment. The Cowell Ranch project will rob us of open space and contribute to the already great strain on all local resources. Please-- take steps to protect the range of positive features which still make our communities desirable places to live.

Thank-you,
Rebecca Donian

Rebecca Donian

3513 Camby Road
Antioch, CA 94509



ARCHITECTURE and PLANNING

E. S. PANCOAST

443 Verona Ave. Danville, CA 94526

1/29/97

DEPT. OF COMMUNITY DEVEL.
CONTRA COSTA CO.
JIM CUTLER ASS. DIR.

COMMUNITY
DEVELOPMENT DEPT

97 JAN 29 PM 3:42

CONTRA COSTA

COMMENTS ON DRAFT EIR COWELL RANCH

JIM,

PLEASE ACCEPT THESE WRITTEN COMMENTS.
I WILL SEND A TYPED COPY TO REPLACE THESE
~~BT~~ IN THE NEAR FUTURE. PLEASE INSERT THE
TYPED COPY WHEN YOU RECIEVE THEM AS TO
MAKE THEM MORE LIKELY TO BE READ.

THANKS, EO PANCOAST

PRELIMINARY NOTES

I. REVIEW OF PRINCIPLES AND GUIDELINES 4/28/92 EDITION

PRINCIPLE ① Research class I & II agricultural soils.

⑦ Study County Billside and ridgepole Ordinance.

③ Study historic policy for protection of wetlands wildlife habitats etc..

④ No language encouraging "Ecological preservation"

PRINCIPLE #2

① Term "sense of place" is too ambiguous and subjective to have any meaning. "Cowell Ranch should ~~reflect~~ evolve in an organic and ecologically sound manner." Organic refers to development of a process that is a "natural extension of both the ~~and the~~ broad biological system incorporating human, ~~and~~ other plant, animal and systemic needs on an incremental basis that does not result in deterioration of one for the benefit of another.

(2) Actually, it requires ^{both} "inflexible regulations" as well as "flexible regulations" to achieve quality. The key is to know which is which and not coningle them legally.

(3) I fail to see the connection between semi rural character of Brentwood and this project. If anything Brentwoods character can best be protected by strong internal ^{planning} ~~and~~ ^{features} and design standards, while more intensive compact building at Cowell would benefit old Brentwood as a whole it would have significant detrimental economic impacts on old town if ^{not} ^{situated}

1. on site mitigation ~~program~~ of all ~~lost~~ ^{lost} natural plant species by a three to one ratio of protected major plant communities ~~is~~ by acreage relative to developed acreage with allowance for protected or reestablished ^{native} plant communities within developed areas ~~be~~ ^{then should no} allowance for ~~loss~~ ^{loss} of ^{diverse} animal habitat ~~that~~ three

67.08

~~plant habitats~~
in developed areas as these areas do not function well for animal diversity due to isolation and fragmentation.

2. on site mitigation for significant endangered species and species of concern with ^{permanent protection of} appropriate habitat on a ~~three~~ ^{three} to one basis.

U R B A N D E S I G N I S S U E S

1. LOCAL PRIMARY EMPLOYMENT BASIS
2. RESIDENTIAL VILLAGE - PRIMARY EMPLOYMENT LINKAGE.

3. ~~RE~~ AVAILABILITY OF HIGH ACTIVITY PARK AREA ON A NEIGHBORHOOD BY NEIGHBORHOOD BASIS.

a. INCLUDE INCREASED NEED FOR PARKS IN HIGH DENSITY RESIDENTIAL AND COMMERCIAL AREAS DUE TO PROPORTIONATELY REDUCED PER INDIVID. DWELLING UNIT OPEN SPACE

b. INCREASED NEED FOR DIVERSE USE PARK ~~LAND USE~~ WITHIN VILLAGE AND HIGH DENSITY ^{RESID. CONTEXT -} FUNCTION. ~~DOES NOT~~ ^{COUNT AS CONTRIBUT TO} ~~habitat or~~ ^{species mitigation.}

c. NEED FOR SMALL HIGH USE PARK AREAS WITHIN LOW DENSITY NEIGHBORHOOD.

4. ARTERIAL STREET DESIGN INCOMPATIBLE WITH PEDESTRIAN FRIENDLY DESIGN AND TRAFFIC CALMING NEEDS. ENCOURAGES HIGHER SPEEDS IMMEDIATELY ADJACENT TO RESIDENTIAL AREAS.

4 CONT. RECOMMEND INTERIOR ARTERIALS BE
DESIGNED WITH GRADE SEPARATIONS AT ALL
CREEK DRAINAGES AND PEDESTRIAN CROSSINGS.

RECOMMEND ^{INTERIOR} ARTERIALS HAVE ON STREET
PARALLEL PARKING

RECOMMEND MAJOR ARTERIALS BE
KEPT TIGHT IN SECTION TO REDUCE CROSSING
DISTANCE / OVERPASS DISTANCE. IN ALL
CASES PEDESTRIAN AND NEIGHBORHOOD CONNECTORS
SHOULD BE UNDERPASSES AT GRADE LEVEL
WITH WIDE ^{BUFFERS FOR} R.O.W. TO PERMIT / ACCOMMODATE
^{CORRIDOR} WILDLIFE CORRIDORS, ~~OR~~ PEDESTRIAN
^{MOVEMENT} AND TRAIL CORRIDORS, LOCAL TRANSIT STOPS,
~~NEIGHBORHOOD CONNECTORS~~ ETC.

SINGLE
5. TRANSIT CENTERS IN THIS SCALE AND
DENSITY COMMUNITY ~~DO~~ DISCOURAGE INTERACTING
TRANSIT USE BY ENCOURAGING RESIDENTS TO
DRIVE TO CENTER. A MORE DECENTRALIZED
PLAN WITH MULTIPLE MODE STOPS AT BOTH
VILLAGES AND BUSINESS PARK LOOPING TO
AIRPORT, ~~OLDTOWN~~ BRENTWOOD AND ? WOULD FUNCTION
BETTER FOR PEDESTRIAN, BIKE ORIENTATION,
~~AND~~ RESIDENTS EMPLOYED LOCALLY AND GENERAL CONVENIENCE.
MINIMUM TRANSFERS AND LOST TIME IS FUNCTION

ORGANIZATIONAL
DESIGN GOAL. * IT IS ESSENTIAL TO ENVISION
~~THE~~ AUTO MODES AS HIGHLY INTEGRATED WITH
A HIGHLY FUNCTIONAL PERFORMANCE BUT ON A
SCALE STRICTLY LIMITED TO LOCAL TRAFFIC VOLUMES
THAT ARE REQUIRED BY "MEDIAN" BY ~~THE~~ INCREASED

5. RELATIVE AMOUNTS OF VARIOUS RESIDENTIAL DENSITIES:

a. THERE IS AN OBVIOUS PRESUMPTION THAN HIGH INCOME LARGER RESIDENTIAL DWELLING UNITS BELONG ONLY IN MORE REMOTE LESS ACCESSIBLE NEIGHBORHOODS. (IF ONLY FOR THE SAKE OF SIMPLIFYING DENSITY ALLOCATIONS.) HOWEVER, AS IN ANY ORGANICALLY EVOLVED COMMUNITY (WITHOUT ZONING), ~~AT~~ THE PRESENCE OF OCCASSIONAL ESTATES ~~AND~~ (OR IN HIGH DENSITY AREAS AND COMMERCIAL CORES ^{UNIQUE} ~~AND~~ THE PRESENCE OF SINGLE FAMILY HOMES) CREATES A CHARACTER, DIVERSITY AND INTEREST IMPOSSIBLE TO ACHIEVE WITH ~~MODERN~~ CONTEMPORARY PLANNING.

67.13

b. THE PREVIOUS IS ALSO TRUE FOR NEIGHBORHOOD CONVENIENCES, SMALL SHOPS, MARKETS, OFFICES DAY CARE, ~~AND~~. SINGLE LOT PLAY FIELDS THAT ALLOW RESIDENTS OF EVERY NEIGHBORHOOD TO ACCESS BASIC NEEDS ~~AND~~ AT A MORE PERSONAL SCALE. THE HIGHER THE RESIDENTIAL DENSITY THE MORE CRITICAL ~~AND~~ THIS NEED BECOMES AND THE MORE FUNCTIONALLY SUCCESSFUL IT ACTUALLY BECOMES.

67.14

c. THE RELATIVE NUMBERS OF LOW DENSITY SINGLE FAMILY ~~AND~~ SHOULD BE JUSTIFIED AND ~~AND~~ SCATTERED NEIGHBORHOODS SHOULD BE CONDENSED WITH THE EXCEPTION OF A LIMITED NUMBER OF AGRICULTURAL ESTATE LOTS WHICH PROVIDE FOR LOCAL COMMUNITY LEOP FARMING.

67.15

6. GENERAL INTEGRATION OF NEIGHBORHOOD FUNCTIONAL NEEDS:

a.) IN AREAS WHERE REASONABLY GOOD AGRICULTURAL SOILS EXIST, A RESTRICTION SHOULD BE PLACED ON PERCENT OF LOT THAT CAN BE DEVELOPED TO ASSURE A ^{COMMUNITY PUBLIC AND} THE LONG TERM AVAILABILITY OF PRIVATE AGRICULTURE. $1/4$ TO $1/2$ ACRE LOTS ARE CAPABLE OF SUPPORTING ADEQUATE ORGANIC FARMING PLOTS TO ~~BE~~ ALLOW SIGNIFICANT SELF SUFFICIENCY.

b.) SMALL NEIGHBORHOOD SQUARES ~~WITH~~ ~~STREET~~ BORDERED BY STREETS AND FACED WITH HOUSES ARE PRICELESS AMENITIES WORTH 5 TIMES AS MUCH MAJOR PARKLAND THAT SEES LESS INTENSE AND FREQUENT USE.

7. URBAN RESERVE SET ASIDES.

a.) SPECIFIC AREAS ADJACENT TO VILLAGES SHOULD BE DESIGNATED FOR LONG TERM EXPANSION OF VILLAGE CORE ON BLOCK BY BLOCK GROWTH CONCEPT.

b.) SPECIFIC VILLAGE CORE AREAS SHOULD PERMIT HIGH INTENSITY FUTURE USE AS AN OPTIONAL ~~ALTERNATE~~ STRATEGY FOR ACHIEVING GREATER ~~SEE~~ ECONOMIC SUCCESS. ~~AND~~

c.) EXPAND AREA OF CORE PLANNED FOR STREET GRIDS AND ALLOW SOME FLEXIBILITY TO RESPOND TO CHARACTER OF LAND FORM
... THE EXTENSIVE TERRACE FORMING.

STRATEGY: YOU MAY NOT GET AGREEMENT
ON ADEQUATE CONSENSUS ON LONG TERM
PLANNING ~~OBJECTIVES~~ BUT YOU CAN
HAVE MORE SUCCESS AT CONVINCING PEOPLE
TO KEEP THEIR OPTIONS OPEN BY ADVANCE
PLANNING AND DESIGN ENGINEERING ^{ALTERNATIVES} WHICH
ALLOW FOR HIGHER DENSITY GOALS.

I.E. (BUILDING ^{TWO STORY} PARKING STRUCTURES TO
ACCOMMODATE 4-6 STORIES OF RESIDENTIAL
OR OFFICE ON TOP, BUT WITHOUT PUBLIC
APPROVAL FOR CONSTRUCTION, ONLY FOR
ENGINEERING.)

8. DRAINAGE / URBAN RUNOFF

FACTS: ALL UNTREATED URBAN RUNOFF
CONTRIBUTES SIGNIFICANT POLLUTANTS
TO LOCAL STREAMS AND EVENTUALLY THE
SAN FRANCISCO BAY AND OCEAN.

- a. ALL URBAN RUNOFF FROM STREETS &
~~DRIVEWAYS~~ DRIVEWAYS, SIDEWALKS SHOULD BE
~~ADDED TO~~ TIED INTO A ~~TREATMENT~~ TREAT-
MENT SYSTEM PRIOR TO DISCHARGE INTO
LOCAL NATURAL DRAINAGE OR BODIES OF
WATER. NEW TECHNOLOGY PERMITS LOCAL TREAT
MENT FACILITIES
- b. LIMITED AMOUNTS OF ROOF DRAINAGE
AND LAWN DRAINAGE MAY BE TREATED
BIOLOGICALLY BY SEEPAGE INTO GROUND
THRU USE OF GRASSY SWALES AND ESTABLISH-
MENT OF CREEK SETBACKS OF A MINIMUM
OF 100 FEET FROM TOP OF BANK ~~OF~~ OF

NATURAL
RESTORED CHANNEL SECTION ~~AND~~

c) ALL CREEKS AND SIGNIFICANT CREEK BRANCHES ~~SHALL~~ BE MAINTAINED IN A NATURAL STATE ~~AND~~ WITH SETBACKS THAT ASSURE FOR LONG TERM ^{NATURAL} MAINTENANCE OF STREAM ALIGNMENT, PROVIDE PROTECTED RIPARIAN HABITAT, ALLOW NATURAL VEGETATION TO ~~EXIST~~ THRIVE WITHIN 200 YEAR FLOOD PLAINS WITHOUT MANAGEMENT FOR FLOOD CONTROL AND ^{OTHERWISE} PROVIDE CONDITIONS SUITABLE FOR THE MAXIMUM DIVERSITY OF PLANT & ANIMAL SPECIES TO THRIVE THEREIN WITHOUT SIGNIFICANT INTERFERENCE BY INDIVIDUALS OR PUBLIC AGENCIES. (SHOULD BE DESIGNATED "PROTECTED NATURAL WATERWAYS" UNDER ZONING ORDINANCE).

d.) RECENT FLOODING THROUGHOUT CENTRAL AND NORTHERN CALIFORNIA HAS AGAIN DEMONSTRATED THE INABILITY TO BUILD FOR MAJOR FLOOD EVENTS. INVESTMENT OF PUBLIC TAX DOLLARS TO BUILD LEVEES THAT BECOME DETERIORATED BEFORE THE NEXT MAJOR 50-100 YEAR EVENT IS A WASTE AND OUTRAGEOUS. RESIDENTIAL STRUCTURES SUBJECT TO INUNDATION SHOULD BE REQUIRED TO BE ELEVATED ABOVE THE 200 YEAR EVENT. FLOOD PLAINS SHOULD BE REEVALUATED AND EXISTING LEVEE SYSTEMS DESIGNED TO ALLOW PERIODIC FLOODING OF ADJACENT AGRICULTURAL CROPLANDS IN ORDER TO REDUCE DOWNSTREAM FLOWS, INCREASE ABSORPTION OF FLOODWATERS, AUGMENT LOCAL AGRICULTURAL SOILS WITH DEPOSITS OF NEW SEDIMENT AND REDUCE TRANSPORT OF SEDIMENTS DOWNSTREAM. THE CONCLUSION IS THAT NATURAL SYSTEMS FUNCTION WHEN DISRUPTED AND FRAGMENTED BY MAN MADE STRUCTURES RESULTS IN MULTIPLE UNDESIRABLE NEGATIVE

VI. CEQA ASSESSMENT CONCLUSIONS.

Approach to EIR evaluation:

1. Specific adverse impacts of high value natural resources, prime agricultural land and transportation related conflict should be mitigated to less than significant levels through modifications to the project not thru payment of fees. 67.22
2. Offsite mitigation should not be considered an acceptable alternative for loss of biological resources because establishment of ~~an~~ any one new type of habitat elsewhere ~~will~~ will unavoidably destroy or damage that places existing habitat. There is no ^{currently} acceptable scenario for valuing one type of habitat above another. Locations where there are very poor habitat values can not ^{typically} support establishment of the types ^{viable} of habitat being lost. (Good habitat can not be regenerated on lands with basic characteristics of poor habitat. 67.23
3. Objectives of project modification to reduce habitat and other impacts should be focused on design appropriate integration of habitat within the project. This objective should be defined as the principle strategy by which habitats are protected ~~rather~~ including development of behavior modification strategies to reduce or eliminate conflict and destruction by humans such as limited access to areas, improved access 67.24

only, and access route control by prohibition of technological or mechanical devices that facilitate access or duration of stay, and strict limitations on any type of improvement permitted within or in ~~an~~ adjacent buffer zones to habitat.

67.24

4. By definition, no impact is unavoidable. Any impact can be avoided or avoided as a significant impact. Significant and "unavoidable" type impacts to both human and other ecologies are undesirable. Significant ~~not to~~ impacts to ^{physical} geological structures are not necessarily undesirable as their direct contribution to the health of the local and regional ecology are minimal. Exceptions are damage to valuable groundwater aquifers and aquifer recharge areas and damage to natural drainage systems, their configuration, flow regimes, habitat values and water quality values. Loss of prime and potentially prime agricultural soils should be avoided at all costs due to irreversible nature of development and long term food production requirements of the human populations.

67.25

5.) Most undesirable and unavoidable impacts are reflective of some characteristic of the human and/or natural environment which is broadly considered to be of significant value and/or an amenity which if retained, adds increased value to what other ^{adjacent} areas are developed ^{including private property}. Therefore the development of a land use matrix with the cumulative values of all characteristics is only one avenue by which land use priorities are derived. Single characteristics of high value may be sufficient to determine development value.

or effect

6.) Development of agricultural soils has multiple undesirable impacts beyond the actual loss of productive crop land. It also reduces the ability of the local resident population and the community from having ^{FOUR} any options for increasing local self-sufficiency and sustainability. It reduces the ability of people of all ages from achieving a more integrated concept of human ecological needs as part of living in a place and it leads increasingly toward homogenous local culture and loss of democratic values based on freedom of options and self determination.

Community based agriculture is equally important to human society as are community based schools, diverse employment opportunities, ~~and~~ freedom of religion, and integrated ^{local} natural environments. Set no precedent for development on prime soils above all.

7.) Any physical community planning should not be conceived or permitted which is dependent on people migrating daily to distant locations for employment.

Highways should not be constructed for this purpose. Levels of residential development must be balanced household by household and job by job with diverse employment opportunities appropriate to the development at all stages of evolution.

①* (Key word is "dependent." i.e. Highway design capacities should not exceed actual design volume traffic flows.)

8. Adjustment of the Urban Limit Line (ULL) on an acre for acre basis resulting in no net change should only be permitted when a) the line remains a continuous unbroken line, and no isolated areas are created that prohibit development, b) the net change produces an increase in areas where development is prohibited. (which by definition may increase the density permitted within the developed areas. c) small isolated villages may be permitted in large unbroken agricultural tracts or other protected resource areas for the needs of the resident serving population of those resource areas and to accommodate limited services for the transient public. (d) ^{net case}

① exception: Limited R.O.W. increase may be provided on key roads for future public transit options. However in most cases rail transit options should have separated alignment to encourage and enhance compact development.

67.27

67.28

67.27

9) There is no justification under any circumstances for permitting ~~unavoidable~~ impacts on any intersections. Transportation needs as defined by auto trips and levels of service should be required to be funded prior to arrival at L.O.S. "C" capacity at any intersection. If funding is not capable of intersection improvement or intensification of use by narrowing of lanes then alternative transportation modes must be implemented in order to continue issuing building permits. Permits issued and public transit use measurements must coincide or reflect maintenance of L.O.S. "C" standards. Intensification and increase in specific local employment needs, and greater focus on mixed use development may be used if, during incremental development L.O.S. "C" is maintained. L.O.S. standards for village or urban core areas may be modified and standards intensified to accommodate higher densities. However perimeter and edge intersections or connections to major regional routes and intercity freeways should not be increased in capacity simply to accommodate a larger commuter resident population. There is no other way to control this factor.

*8) Adjustment of U.L.L. should have as its basic premise that it will increase protection of valuable natural resources ~~not~~ currently in danger of development within the U.L.L. and NOT in order to acquire additional marginal lands for urban development.

V. Alternatives to Proposed Project.

Alternative A. NO Project - by definition this is not a reasonable alternative to the applicant.

67.30

Alternative B. NO General Plan Amendment -

Again by definition this is not a reasonable alternative to the applicant.
(SO FAR NOT A GOOD RANGE)

67.31

Alternative C integrated alter - This alternative sounds and looks like an alternative for real. The objective of reducing the project impacts on open space is by itself not as critical as the intent which should be to increase the size of the core area of the project.

The objective of reducing impacts on prime agricultural land and jurisdictional waters and habitats. I wholeheartedly support.

67.32

I am the least concerned about view corridors of all these concerns. Again the objective should be compact development with ~~low~~ high quality living standards and well integrated natural areas. Good examples of high quality, higher density compact communities are very much needed to lead the way to a more sustainable growth pattern.

Alternative D NO Comment

Alternative E Either of these two alternative sites may be more desirable by virtue of having less growth inducing impacts and being closer to other larger urban

67.33

Alternative E (cont)

The option of transferring development rights from Cowell to a Brentwood Sister City such as El Cerrito would be an interesting approach. It would require potentially the sharing of certain tax ~~and~~ benefits generated by a project in one location (El Cerrito) with the preservation of farmland in Brentwood including perhaps ~~the~~ subsidizing certain actual farming costs or the allocation of certain Brentwood produce to El Cerrito etc. This could be extended to other products and services being traded at below wholesale ^{between} ~~to~~ guaranteed markets. This is a similar concept to natural resource ^{non} depletion guarantees where the construction of 100 houses results directly in the planting and growth to maturity of sufficient ^{specific} ~~the~~ timberland to build 100 houses.

This concept of sustainable development linked to sustained renewable resource generation was ~~originally~~ done in Virginia in the ~~early~~ ^{EARLY} 1800's.

67.33

areas. However this is probably not a viable alternative to the applicant.

67.93

In Conclusion -

With very limited time to study and evaluate this project I will sum up my opinions.

I believe this is a fairly well conceived design for a village centered community based design for a new town.

However I believe it is extremely premature for the area it is located in and could not be justified without utilizing organic community evolution techniques based on local democratically ~~or~~ citizen controlled work/service cooperatives which are rooted in sustainable locally based economics. Such principles are beyond the capability of current local government planning and are by nature the result of independent local citizen initiatives and not the result of proactive local government initiative. However such efforts have a long history and worth looking into.

67.34

Finally as I have emphasized, the essence of any growth in any location must originate in the maximum feasible protection of ~~the~~ local ecological values and their integration into a holistic sustainable and progressive human ecological community.

Thank you Edward L. Pancost

**save MOUNT DIABLO**

Post Office Box 5376

Walnut Creek, CA 94596

(510) 947-3535

January 30, 1997

Jim Cutler
Contra Costa County Community Development
651 Pine St., North Wing-Fourth Floor
Martinez, CA 94553

Via FAX 335-1299

re: Cowell dEIR; County File #1-92-CO, Rezoning #RZ933014

Dear Mr. Cutler,

Thanks for the opportunity to comment on the dEIR for the Cowell project. The Cowell Ranch is at the edge of Save Mount Diablo's area of interest and we take no position on approval of the development.

We are interested in aspects of the development that may affect open space values east of Mt. Diablo, including impacts on Round Valley Regional Preserve and Marsh creek; our comments are related more to the merits of the project and a FEIR, than the dEIR.

In particular, Save Mount Diablo requests that any off-site mitigation efforts, including land acquisition, be made locally, within the county and preferably near the project site. We support open space preservation onsite to mitigate for endangered species impacts, although the standard for mitigation appears to vary throughout the document.

Both on and off-site mitigations should be directed at preserving endangered species and other wildlife corridors between the project and nearby open space holdings; the connection from the Cowell parcel to Round Valley through the staging area being leased by the Cowell Foundation to the EBRPD should be dedicated to the District in fee, for example.

We also support mitigations included which would help preserve Marsh creek. Although we're not taking a specific position on the development, the mitigated alternative is preferable to the project being considered, since it removes development from Briones Valley.

We would like to continue to be included on the mailing list for this project, and would like to receive the Final EIR.

Sincerely,

Seth Adams
Director of Land Programs

97 JAN 31 AM 9:08
COMMUNITY DEVELOPMENT DEPT

CONTRA COSTA

68.01

68.02



SIERRA CLUB SAN FRANCISCO BAY CHAPTER

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January 30, 1997

James Cutler

Assistant Director of Comprehensive Planning
Community Development Department

Contra Costa County

651 Pine Street, North Wing -- Fourth Floor
Martinez, CA 94553

Dear Mr. Cutler,

Thank you for the opportunity to review and comment on the draft EIR for the Cowell Ranch project. We appreciate the extensions to the comment period. We hope that you will continue to allow ample opportunities for public input into this very significant decision.

Our comments are in two sections: first we present our preliminary conclusions about this project, based on the information contained in the EIR; second we suggest specific areas for further review and discussion in the final EIR.

Preliminary Conclusions

Cowell Ranch is one of the most environmentally destructive development projects to be proposed in the Bay Area in many years. The Sierra Club unequivocally opposes the Cowell Ranch project. This is the wrong place for a huge influx of homes and businesses. We dispute those who say that growth is coming anyway. The Contra Costa General plan allows up to 16 rural "ranchettes" on the site. The County is under no legal obligation to allow any more.

The draft EIR describes numerous significant impacts which can not be mitigated. These alone are enough to justify a rejection of the project. In addition, the project violates many general plan policies, growth management policies outlined in "Conditions for a 21st Century Community", as well as "Principles and Guidelines for Cowell Ranch" which were supposed to assure high quality development for this site. If the County approves a development of this magnitude which is so inconsistent with these policies, the County is undermining the whole concept of planning.

97 FEB -3 AM 10:29
COMMUNITY
DEVELOPMENT DEPT
GONIRA GOSTA

69.01

EXAMPLE: Loss of prime agricultural soils is an unacceptable significant impact.

You correctly describe the conversion of 357 acres of USDA defined prime soils to urban development as a significant impact which can only be mitigated by substantially altering the project to remove development from this part of the property.

We'd like to emphasize the significance of this impact.

Of the proposed Cowell development, 25% is slated to be built on class 1 and 2 Brentwood clay loam soils, that are now producing valuable organic Fuji apples at 25-30 tons per acre per year. That's up to 60,000 lb/acre at over \$1/lb retail value! While the farmers only receive a portion of this revenue, thousands of other jobs in trucking, packaging, and retail flow from this initial productivity.

Numerous studies have shown suburban housing developments to be a net drain on the public coffers because of the expense of providing services. Farms, in contrast, generate net revenue flows to the County. Farming pays for itself, year in and year out.

Some argue that farming will simply move elsewhere, but the tragic fact is that some of the best agricultural regions in the state, such as the Santa Clara Valley, have been lost forever, and the areas that remain are not interchangeable from a standpoint of soils, climate, or economics. East Contra Costa County has a rare combination of soils and climate, is close to markets, and has among the lowest water pumping costs for irrigation in the state; only a few places can grow Bing Cherries, Blenheim apricots, Fuji apples, 50 tons of tomatoes per acre... Even nearby soils, such as Oakley sand, are not as good.

On this portion of the property at least, farming is clearly the highest and best use of this land from an economic standpoint, as well as from an environmental standpoint.

EXAMPLE: Grading violates all policies.

It appears that Cowell Foundation is proposing a brutal assault on the landscape which make a mockery of the "Principles and Guidelines for Cowell Ranch" statement that natural contours of the site shall be emphasized. If Cowell was actually interested in protecting the contours of the site -- which include an especially lovely series of sinuous ridges and hidden valleys -- they would keep grading to an absolute minimum. Instead they are proposing to cut as much as 80 feet off the ridgetops and fill in the valleys, making a typical Southern California "developer mesa".

But you, astoundingly, assert (IV - D 28) that "the plan generally conforms to the site's topography."

The grading plan clearly violates the following policies:

Development on open hillsides and significant ridgelines shall be restricted

Hillsides with a grade steeper than 26% shall be protected

Significant hillsides with slopes over 26% shall be considered unsuitable for types of development which require extensive grading

Preserve prominent ridgelines and other significant natural features

Design development to complement terrain and limit grading

Design grading to emulate natural landforms in the immediate vicinity of the graded area

69.03

Specific Areas for Further Review in the Final EIR

We must disagree with many of the EIR's mitigation proposals, which we believe are often unrealistic at best or wishful thinking at worst. While we don't believe that many of these impacts can be mitigated, CEQA requires you to undertake a more rigorous attempt to do so in this document.

EXAMPLE: Grading plan can not be mitigated after the fact.

The significant impacts of grading on aesthetics are discussed in Chapter IV - J (Visual Factors). There, you acknowledge that mass grading and alteration of the natural topography will have a potentially significant impact; as mitigation you propose to amend the Planned Unit Development standards to promote preservation of landforms and minimize grading.

69.04

However, you state that these standards will be imposed on a CASE-BY-CASE basis when reviewing future applications involving practically ALL the planning areas for this property!!! This is a very odd and cumbersome process, one that is likely to fail for a variety of reasons.

The initial grading plan will guide all subsequent layers of the development plan -- the location of building sites, internal roads, drainage, etc. All subsequent impacts -- and the mitigation plans for them -- flow from the initial decisions of how the large features of the landscape, the hills and valleys, will be manipulated and rearranged by grading.

It is unreasonable to assume that large changes would be made at later stages in the planning process that would require extensive (and expensive) revisions to the circulation plan or other elements that had been considered in this document.

For this reason, we would like to see the conceptual grading plan substantially modified at the front end of the process. Guidelines such as "preserve prominent ridgetops" should be incorporated into the overall project design from the very beginning, starting with this EIR, and not postponed till later stages of design.

69.04

EXAMPLE: Impacts to Brentwood's commercial establishments.

You have proposed two mitigations, neither of which appears likely to succeed. The first is to require coordination between commercial development in Brentwood and the project, so that commercial establishments complement each other instead of compete, but you have qualified this requirement with the phrase, "to the extent possible." Yet you do not identify a zoning designation which would give any teeth to this proposal. And there is plenty of local evidence of jurisdictions competing for sales tax revenue.

69.05

You have also suggested that "direct and convenient" transit service, if implemented, between the project and Brentwood, would mitigate impacts to the viability of Brentwood businesses by bringing in potential patrons. However, you have failed to give any examples of this strategy succeeding in other similar areas; and if this transit service is not actually established, due to fiscal or other constraints, your mitigation measure will have largely failed.

It seems more realistic to say that this mitigation (LU-5) will not succeed, and thus this impact should be considered significant.

EXAMPLE: Jobs/Housing Balance concept is suspect, undermining your analysis of transportation impacts and mitigations.

We note that you show only 8% of trips leaving East County during the a.m. commute in 2010. (Page IV.C--46) We think this is unjustifiable. In comparison, San Ramon currently has a surplus of jobs to housing, yet only 30% of San Ramon residents work in the city, and 70% commute out.

In East County, the current ratio of housing to jobs is almost 2 to 1, and by 2010 it is projected to be about 1.4 to 1. (tables 20 and 21, Page IV.C -- 34-35). Therefore, the percentage of workers commuting out of the East County area will undoubtedly be even greater than in San Ramon -- but certainly more than 8%.

69.06

Moreover, the San Ramon figures should deflate the jobs/housing balance shibboleth. In the current economy, people drive long distances to work, regardless of the local abundance of jobs. (The only regional exception is San Francisco, where the density, congestion, and number of jobs obviously creates a situation which has no comparison elsewhere in the region.)

Based on the San Ramon experience, we simply do not believe that adding jobs in the East County will reduce out-of-area commuting on a one-to-one basis (though it will certainly increase numbers of workers commuting INTO the East County). East County is not now, and will never be, a self-sufficient island of residents who have avoided the reality of commuting ever increasing distances to work.

69.06

Since your model is so flawed in assessing out-of-area commuting, we suspect that many traffic impacts to out-of-area intersections and freeway bottlenecks were underestimated in your analysis, and that appropriate mitigations have not even been considered.

MORE EXAMPLES

The following are other examples where the proposed mitigations that would reduce anticipated environmental impacts to "less than significant" levels are largely speculative or left at the discretion of the property owner or non-County agencies. These mitigations should either be required, or demonstrated to be practical; if not, they should be dropped as mitigations, and the impact should be described as significant.

69.07

Agricultural soils are to be avoided only "if feasible" -- presumably meaning "if economically feasible" to the property owner. No attempt is made to distinguish between feasibility and degree of profitability. Since the owner is intent on maximizing profits, the owner may consider any reduction in profitability to be "infeasible".

You leave the problem of transit service entirely in the hands of transit agencies. You do not discuss the likelihood of such service being provided, nor require the developer to fund such service. Indeed, your requirement that the developer provide shuttle service could be counterproductive, if shuttles compete with transit systems (i.e., by connecting the site directly to BART you might compete with Tri-Delta Transit). Nor do you establish criteria for transit service frequency or coverage of the project site that would satisfy your significance criteria. One daily bus to the site would apparently meet your standards.

69.08

The discussion of water service is one of the most problematic. The prime option requires annexation to Brentwood, though this requires a political decision that is beyond the control of the County. The other options require LAFCO approvals of jurisdictional adjustments, and contractual agreements with other agencies to provide water treatment. All of these alternatives are speculative at best, involving complex political, legal, and economic obstacles. Since no water agency has declared itself willing and able to provide water to the site, this mitigation (PF-1) should be changed to "Significant".

69.09

OTHER DETAILS TO ADDRESS IN FINAL EIR

OVERLAY MAPS NEEDED

Please prepare overlay maps which allow the public to compare the present topography and slope maps with the proposed "conceptual" grading map. I have tried to use a xerox machine to make overlays of figures 44 and 38 (Chapter IV -- D), but they are not to scale.

69.10

ESCROW ACCOUNTS FOR LANDSLIDES

Please discuss the adoption of escrow accounts, performance bonds and other mechanisms as a mitigation measure (soils and geology) to assure that the developer will pay the costs associated with property-damaging soils failures resulting from the extensive grading and fills proposed by the applicant. For example, consider the recommendations recently made by the planning commission of the city of Richmond for the Castro Ranch proposed development.

69.11

WILDLIFE IMPACTS NOT ADDRESSED

Please explain why the long-term impact of 13,000 residents (and their pets) does not constitute a significant impact on wildlife species and merit mitigation, while the short term impact of construction activities is deemed to exceed the threshold of significance, and require mitigations such as prohibition of pets, restrictions on rodenticide, etc.

69.12

Please discuss habitat management conditions on the wildlife movement corridors provided by the proposed development plan -- such as fencing, prohibitions on discing, mowing, irrigating, etc -- to assure that developers maintain these corridors over time in a condition conducive to wildlife movement.

69.13

Conclusion: An Appeal to the Cowell Foundation!

The Henry Cowell Foundation, a non-profit charity, uses its assets to fund organizations that address social problems including the impacts of population growth to California's environment. We applaud the Cowell Foundation for the good work they have done on these issues in the past. We hope that the Board of Directors of the Cowell Foundation will abandon this project, which is among the most environmentally damaging to be proposed in the Bay Area in recent memory.

Sincerely,

Fred Beddall

Fred Beddall
Conservation Representative

ASSOCIATION OF BAY AREA GOVERNMENTS CONTRA COSTA

Representing City and County Governments of the San Francisco Bay Area



97 FEB -3 PM 5:50

COMMUNITY
DEVELOPMENT DEPT

January 30, 1997

James W. Cutler
Contra Costa County Community Development Department
651 Pine Street (North Wing, Fourth Floor)
Martinez, CA 94553

Re: Draft Environmental Impact Report (DEIR) for the
Cowell Ranch Project General Plan Amendment and Related Actions

Dear Mr. Cutler:

Thank you for the opportunity to review the DEIR for the Cowell Ranch Project General Plan Amendment and Related Actions. The DEIR evaluates the potential impacts associated with a proposed mixed-use urban development that would allow up to 5,226 dwelling units, 1.86 million square feet of commercial and business park floor space, a golf course and associated public, institutional, open space, recreational and infrastructure uses, on a 4,277-acre site in East Contra Costa County.

We would like to commend the County and the DEIR preparers for the organization and readability of the document. The identification and analysis of potential impacts are particularly clear and thorough.

ABAG's primary area of concern is with the subregional and regional impacts a project of this magnitude, located at the far eastern edge of the region, may be expected to have. As the DEIR indicates, in July 1990 ABAG's Executive Board adopted the following regional policies:

- Direct urban growth where regional infrastructure capacity, such as freeway, transit, water, solid waste disposal and sewage treatment is available or committed, and where natural resources will not be overburdened.
- Encourage development patterns and policies that discourage long distance automobile commuting and increase resident access to employment, shopping, and recreation by transit or non-auto means.
- Establish firm growth boundaries for the urban areas of the Bay Area. Direct and permit urban development only within these growth boundaries.
- Encourage the provision of housing opportunities at all levels.

70.01



- Allow for the development of new communities along transit corridors where interurban transit service and capacity are available or committed when they would be consistent with regional or subregional goals and objectives, and not negatively impact existing communities.

The referenced regional goals and objectives include long-term protection and enhancement of agricultural land, environmentally sensitive areas and open space; reduction of public costs through efficient use of infrastructure; improved air and water quality, and economic vitality, in addition to those expressed in the policies.

The DEIR identifies a number of significant unavoidable impacts that directly conflict with our adopted regional policies. These include LU-1, Loss of Open Space; LU - 4, Substantial Change in Physical Arrangement of Brentwood Community; AG - 5:, Precedent Setting Impacts on Nearby Agricultural Uses; and AQ - 2, Regional Air Quality Effects.

Impact AG - 5 refers to impacts on agriculture caused by the project's requested change in the County General Plan-designated Urban Limit Line (ULL). While we agree that that the impacts on agriculture would be significant, other impacts are likely to accrue. The Final Environmental Impact Report (FEIR) should include a more detailed discussion of the full range of growth-inducing, precedent-setting impacts likely to result from changing the ULL to accommodate this project. Premature adjustment, particularly so soon after its adoption, would seem to defeat the purpose of establishing the ULL.

Other impacts, identified as potentially less than significant with mitigation, may also prove to be significant both locally and regionally should the proposed mitigations not occur or prove ineffective. For example, the DEIR identifies transportation improvements for which no funding has been identified, according to Metropolitan Transportation Commission and Contra Costa Transportation Authority staff. Travel Demand Management approaches, including transit facilities, are recommended to mitigate transportation impacts. While the project *proposes* a range of densities and housing types, it is not clear that the development *as constructed* will have the requisite densities and land use patterns to support transit. The FEIR should analyze the feasibility of establishing convenient, frequent transit service to serve residents, as well as employees, and community college students commuting into the project area.

With regard to housing, Impact LU - 3 points out that while the project proposes to construct a range of housing types, including a large number of attached units, there is no discussion of anticipated housing prices. We strongly support the proposed mitigation that would require the project proponent to establish an effective housing program that ensures that housing developed within the project will be affordable to the full range of income groups identified in state housing law, with particular efforts to meet the housing needs of workers employed within the site.

Impact LU - 11 states that the project includes no effective mechanisms to foster a balanced ongoing rate of housing and jobs development. In addition, the project is projected to have substantial deficits of employed residents to jobs in the year 2010, and of jobs to employed

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residents in the year 2026. Implementation of the recommended *Employment Development Program* should be required, monitored, and adjusted as needed to minimize the transportation and air quality impacts that would be associated with high rates of long distance automobile commuting.

70.06

A related issue, that the FEIR should address, are the impacts that might occur throughout the East Bay if the businesses that locate within the Cowell Ranch project are not providing additional jobs, but are shifting existing jobs to the site from elsewhere in the region where they are currently better served by infrastructure, particularly public transit. Similarly, the FEIR should consider the environmental costs of providing new sites that will compete with available land in areas more centrally located and better served.

70.07

The DEIR states that an infill development alternative was considered, but not evaluated since such an alternative would not meet the basic objectives of the project, which are to create "a largely self-contained community" and to "achieve a quality of design, sense of community, and a level of amenities not achievable on smaller tracts of land." While those objectives are admirable, given the identified significant unavoidable impacts of the proposed project, including inconsistency with our adopted regional policies, we urge policymakers to consider an infill strategy that could allow an equivalent magnitude of development at a variety of available sites throughout Contra Costa adjacent to or within existing communities where infrastructure is already available.

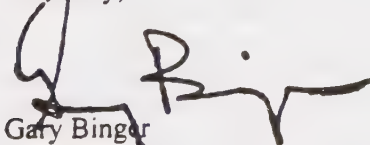
70.08

The magnitude and location of the project, and the regional scope of the identified impacts suggest that action on the proposed General Plan Amendment and related decisions should be postponed until the appropriate jurisdictions, including those in adjoining counties, collaborate to develop a comprehensive growth management strategy to guide future development decisions in the entire corridor. The strategy should include and integrate policies that address land use, transportation, natural resources, housing and economic vitality.

70.09

We appreciate the opportunity to offer these comments, and look forward to receiving the Final Environmental Impact Report. If you have any questions regarding this letter, please call Ceil Scandone on my staff at 510/464-7961.

Sincerely,



Gary Binger
Deputy Executive Director
Planning Director

GB:cs/p/cowell.doc.

cc: Ellen Garvey, BAAQMD
Craig Goldblatt, MTC



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97 FEB -3 PM 5:51
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January 30, 1997

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Martinez, CA 94553

Subject: Draft Environmental Impact Report, Cowell Ranch Project General Plan Amendment and Related Actions

Dear Mr. Cutler;

This letter contains MTC staff comments on the Draft Environmental Impact Report (DEIR) for the Cowell Ranch Project General Plan Amendment and Related Actions. The proposed general plan amendment would permit the construction of 5,226 single-family and multi-family dwelling units; 698,267 square feet of commercial/office uses; 1,158,696 square feet of business park uses; and various public facilities and 3,008 acres of open space over a nearly 4,277 acres in unincorporated eastern Contra Costa County. The estimated build-out totals of the project for employed residents and on-site jobs are 7,849 persons and 6,628 jobs respectively.

Comments on the Transportation Impact Analysis

Land-use Assumptions

Two different sets of ABAG Projections data are used for the transportation (1994) and land use sections (1996) of the DEIR. The differences in the demographic data sets for eastern Contra Costa County jurisdictions and their significance should be shown.

71.01

Corresponding with the project's two phases, the DEIR looks at 2010 and 2026 as horizon years. There should be more discussion about how the 2026 household estimates (Table 20, page IV.C-34) and 2026 employment estimates (Table 21, page IV.C-35) are derived. Growth assumptions between 2010 and 2026 appear to be on the low side. Based on these tables, overall growth in households and employment for total East County are projected to be 97.0% and 137.8% respectively between 1990-2010. Between 2010 and 2026 growth drops to 9.5% and to 9.2% respectively. The analytical basis for this should be shown.

71.02

Transportation Network Assumptions

The DEIR traffic analysis' network assumptions for 2010 are consistent with those in the Regional Transportation Plan. However for 2026, the DEIR network assumptions cannot be compared with the RTP because it's horizon year only goes to 2016. It should be noted that the widening of Route 4 between Bailey Road and Route 160 is not funded and will require significant federal, state, and/or local financial resources. The East County transportation mitigation fee program which is currently collecting approximately \$4,000 per dwelling unit in eastern Contra Costa County will raise only half

71.03

of the money for this widening through 2020, according to the East Contra Costa Regional Fee & Financing Authority's *East Contra Costa Transportation Strategic Plan* (May 1996).

71.03

Trip Generation and Distribution

The Cowell Ranch trip distribution shown in Tables 24 and 25 (pp. IV.C-46,47) shows results that appear to conflict with the 1990 Census Transportation Planning Package, with the 1996 MTC regional travel model results performed for the Regional Transportation Plan, and with demographic assumptions shown in Tables 20 and 21 (pp. IV.C 34, 35).

In the DEIR, 2026 trip distribution during the AM peak hour shows twice as many trips being produced from other Bay Area locations (beyond East County) to work in Cowell Ranch compared to Cowell Ranch trips destined to other Bay Area work locations. In other words, the AM peak hour distribution appears to show substantially greater reverse commute direction trips than traditional commute direction trips. This is contrary to the generally understood regional commute patterns in East County.

East County has, and for the foreseeable future will continue to have, a substantial jobs deficit. This is well-documented in many sources, including the Cowell Ranch DEIR itself (See Table 8 on p. IV.A-4). In 1990, only 27,863 East County residents held jobs located in East County; and 46,571 East County residents commuted to Bay Area jobs outside East County. Only 8,156 residents from other parts of the Bay Area held East County jobs. Thus, East County, in 1990, had 38,415 more workers than jobs.

TABLE 1
1990 EAST COUNTY WORKER FLOWS

	In	Out	Intra
Rest of Bay Area	8,156	46,571	27,863

(Source: MTC, Detailed Commute Characteristics in the Bay Area, 1990 Census Transportation Planning Package, Working Paper #7, March, 1994.)

71.04

In order to determine whether the eastern-most portion of East County has similar or dissimilar work trip travel patterns, a more focused analysis of three far East County census tracts was conducted. Base Year 1990 and Year 2015 daily MTC trip tables (used in the 1996 RTP) were examined for Census Tracts 3031(Brentwood), 3032 (Brentwood) and 3040 (Byron, Discovery Bay). Consistent with East County as a whole, far larger numbers of outs than ins were shown - both in 1990 and in the 2015 forecasts. (Note: trip table analysis examined both home-based work and non-work trip purposes.) Thus, the Brentwood and Byron Census Tracts, as well as East County as a whole, show far larger numbers of out-commuters than in-commuters.

Specifically, should Cowell Ranch have commuting patterns that are roughly similar or dissimilar to East County patterns? Upon buildout, the DEIR projects that Cowell Ranch will have 6,628 jobs and 7,849 workers - more workers than jobs.

As such, it is expected that "excess" Cowell Ranch workers ($7,849 - 6,628 = 1,221$ "excess" workers at a minimum given that all Cowell Ranch residents will not fill Cowell Ranch jobs) will have to travel to jobs in Eastern Contra Costa or other Bay Area locations. Thus, it is logical to expect more Cowell residents traveling to work at locations outside of East County, than East County non-residents traveling to Cowell Ranch work locations. However, the Cowell Ranch DEIR does show over twice as many "Ins" than "Outs" from other parts of the Bay Area (434 vs. 206) in 2026 during the AM peak hour. By assuming more than twice as many "Ins" than "Outs" from other Bay Area Locations (beyond East County) the following implications follow:

- If persons who live in other parts of the Bay Area are coming to work at Cowell Ranch, they are traveling in the less congested "reverse commute" direction. This would lessen the impact of Cowell Ranch on congested facilities in the traffic analysis.
- Trip distribution rates used in the analysis for trips between the project and points external to East County would be underestimated. Therefore, too many trips would be assumed to be staying within East County, which are short trips relative to those leaving East County. This would lead to a possible underestimation of vehicle miles of travel and congestion on regional/interregional transportation facilities which connect East County to Central Contra Costa County, Alameda County, and other areas.

Given the questions raised by the trip distribution tables, as well as other tables showing improved traffic volumes, the following information should be made available for both 2010 and 2026 conditions:

- Trip Generation: Provide daily, and AM and PM peak hour trip rates applied for each land use category. Please also provide daily, and AM and PM peak hour total trips for each land use category.
- Trip Distribution: Please explain the basis for the trip distribution assumptions presented in Tables 24 and 25 (page IV.C-46). Your analysis assumes that only a small percentage of peak hour trips generated by the project, many which are home-to-work, would have origins or destinations outside of Eastern Contra Costa County (12.6% in a.m. peak and 14.8%). The effect of using too low a trip distribution outside of Eastern County is to underestimate the impact of the project on regional transportation facilities connecting Eastern Contra Costa to other areas. Your trip distribution assumptions from and to the project should be supported by either U.S. Census Data or other travel surveys collected at similar mixed-use developments/subdivisions in the project vicinity. Additionally, please provide daily, and AM and PM peak hour trip distributions by trip purpose. Please explain the process for applying trip generation rates to trip distribution. If the distribution of trips between areas outside of Cowell Ranch have been altered as a result of the Cowell Ranch project, provide documentation on these changes, as well. In addition, explain the methodology for determining trip end locations of new trips outside of Cowell Ranch. In other words, explain the percentages of total trips that would travel to San Ramon, to Tracy, to Mountain House, and to Brentwood. Provide total numbers and percentage distributions for daily, AM and PM peak hours.

71.04

Off-site Impacts on Transportation Facilities and their Mitigation

The DEIR concludes that the project causes unavoidable significant off-site impacts on State Route 4 freeway between Railroad Avenue and the State Route 4 Bypass (Year 2026); and Vasco Road (year 2010 and year 2026). Other potentially off-site significant impacts identified became less than significant after mitigation was applied.

We have a number of concerns regarding the proposed mitigations which are listed below. Several mitigation measures proposed to reduce or eliminate significant impacts cannot truly be considered a mitigation for the project:

- Payment into the regional mitigation fee program would only construct projects or partially finance projects that are identified by the *East Contra Costa Transportation Strategic Plan*. As noted above, many of the projects in this plan are not completely funded. This raises implications for financing any transportation mitigations that are required by this project and are not in this plan. The developer or Contra Costa County would remain as the only reliable funding sources. 71.05
- On page IV.C-54 it is stated for the portion of Route 4 between Bailey Road and Railroad Avenue: "a mitigation for this impact would be to require that the planned future widening of this section of SR 4 to eight lanes (six mixed flow plus two HOV) be completed before Phase I of the project is completed." Omission of this mitigation measure in the summary pages and other sections does not make clear whether this will be a condition of project approval. 71.06
- The DEIR states on page IV.C-55 that the project build-out would have beneficial impacts on a portion of the SR 4 freeway during the p.m. peak hour, due to the high level of employment planned for the Cowell Ranch project area. Please explain this further. 71.07
- The DEIR proposes to rely on a new HOV lane discussed as part of the Altamont Interregional Corridor Transportation Study to mitigate project impacts on I-580 east of Vasco Road (page IV.C-55). However, the HOV lane is not part of the RTP nor is it currently proposed for funding. This recommendation is subject to additional analysis before it becomes part of the Regional Transportation Plan. Furthermore, the County, CCTA, project sponsor, or East County jurisdictions are not in a position to either finance or implement this project in Alameda County. Consequently, this is not an appropriate measure for mitigating project impacts. 71.08
- Mitigation T-1 is a non-specific approach to mitigate the project's transportation impacts. While the requirement that the developer adhere to performance standards at the project permit stage offers the County flexibility in determining what mitigation measures are appropriate at the time of the future development application, it is not clear to us what mitigation can be expected in the context of the EIR, with the exception of those improvements identified in Tables 32 and 33. Will this approach possibly require the developer to finance or implement improvements beyond those in these tables with respect to off-site transportation improvements? 71.09
- While it is agreed that widening Byron Highway and Camino Diablo to four lanes would reduce the project's impacts on this facility (page IV.C-56), some entity will have to pay for and construct these improvements as a condition of this project for it to be a mitigation measure. The 71.10

DEIR states that a "Route 239 concept that would provide additional capacity in the corridor ... is not yet planned or funded. Consequently this project should not be used to mitigate project impacts on the Byron Highway unless the FEIR proposes that this improvement be a condition of project approval.

71.10

Land-use Impacts and Issues

We note that the project raises a number of land-use issues for Contra Costa County:

Contra Costa General Plan Policies (cited on page IV.A-26, bullets three and four) are clear in that development of urban uses shall be coordinated with the provision of essential infrastructure; and infilling or already developed areas shall be encouraged. "Proposals that would prematurely extend development into areas lacking requisite services, facilities and infrastructure shall be opposed." Given funding constraints, it is unlikely that federal and state funds would be available to provide adequate transportation facilities or services to this area; thus this project has the potential for overwhelming the transportation facilities in Eastern Contra Costa County.

71.11

We appreciate the opportunity to comment on your DEIR, and look forward to receiving the FEIR including responses to our comments.

Sincerely,



Craig A. Goldblatt
Environmental Review Officer

cc: ABAG Clearinghouse
Commissioner McKenna
Commissioner Torlakson
Commissioner Brown
Irwin Mussen, BAAQMD

guidelines, a project or project-plus-cumulative related change to the roadway system is considered to have a potentially significant adverse safety impact if the associated changes to the transportation system result in conditions that conflict with adopted design standards with respect to sight distance, roadway width, and other safety-related requirements. The County adopted highway design standards for the Los Vaqueros-Vasco Road project and the remaining winding section of Vasco Road. Given the magnitude of the project (5,226 dwelling units, etc.), we think this project would have a significant adverse safety impact on the winding section of Vasco Road, south of the new Vasco Road.

72.03

4. As much as Alameda County calls for a policy limiting the capacity of Vasco Road to two lanes, it is necessary that this roadway be realigned to improve traffic flow and safety. Alameda County is currently seeking funds to improve the section of the roadway from the new Vasco Road to the Livermore City limit. Included by the Tri-Valley Transportation Council in the Tri-Valley Transportation Plan High-Priority Projects, the proposed improvement includes realignment of the roadway, widening of shoulders, and installing passing lanes without increasing its capacity, consistent with the standards being used in the Los Vaqueros-Vasco Road project. To mitigate the significant adverse impact of the Project on the winding section of Vasco Road, the applicant should be required to contribute a fair share funding toward this Vasco Road safety improvement project.

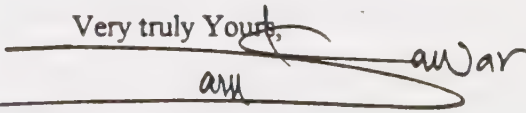
72.04

5. To reduce the impact of the Project to Vasco Road, the applicant should be required to contribute a fair share toward Travel Demand Management measures focused on reducing single occupancy vehicle commuting on Vasco Road. In addition, conditions of approval of the project should include language requiring provision of shuttle services to the East Dublin/Pleasanton BART station and job employment centers in the Tri-Valley area.

72.05

Again, we thank you for the opportunity to comment on the Cowell Ranch Draft EIR. If you have any question regarding these comments, please call Ferdinand Del Rosario at 670-5551.

Very truly Yours,


Ousama H. Kavar
County Engineer

FBD:fbf

copy: Donald J. LaBelle, Director of Public Works
Adolph Martinelli, Director, Community Development Agency



COUNTY OF ALAMEDA
PUBLIC WORKS AGENCY

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CONTRA COSTA

97 FEB -3 AM 10:52

COMMUNITY
DEVELOPMENT DEPT

January 30, 1997

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Contra Costa County Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, CA 94553

RE: Draft Environmental Impact Report, Cowell Ranch General Plan Amendment

Dear Mr. Bragdon:

Thank you for giving us the opportunity to comment on the Cowell Ranch (Project) General Plan Amendment Draft Environmental Impact Report. Our comments are focused on the transportation impacts of the Project to Alameda County. These comments are as follows:

1. As mentioned in the report, the Alameda County Board of Supervisors has adopted General Plan policies against the widening of Vasco Road. However, this policy does not preclude the County from supporting or approving any rail projects or improvements required for roadway safety. The report should mention that safety projects on Vasco Road are not inconsistent with the Alameda County gateway policy. 72.01
2. Table 23 on page IV.c-45 indicates that the AM peak hour vehicle trips generated by the project for Year 2010 is 2,728 trips. In addition, Figure 36 shows the Year 2010 AM peak hour volumes on Vasco Road south of the County Line is 2,040 (No project) and 2,050 (With Project), a difference of 10 trips. These data indicate that out of the 2,728 AM peak hour trips generated by the Project for Year 2010, only 10 trips (0.4 percent of the trips generated by the Project) use Vasco Road to a work destination in the Tri-Valley and/or Santa Clara County. Considering the proximity of the project to Vasco Road and the attraction of jobs in the Tri-Valley and Silicon Valley areas, we believe the projected numbers are incorrect. Please verify the accuracy of the traffic model input particularly the employment projections in the Tri-Valley and Silicon Valley areas, check for consistency with the Tri-Valley traffic model and verify the resulting traffic volumes projected on Vasco Road. 72.02
3. The Draft EIR did not address the safety impacts of the Project on Vasco Road, particularly the rural winding section in Alameda County from the new Los Vaqueros-Vasco Road built by the Contra Costa Water District to the BFI Landfill entrance. According to the report, about 69 percent of the collisions on Vasco Road reported over a three-and-one-half period occurred within this section. Based on the CEQA 72.03

355 Fir Street
Brentwood, CA 94513
Jan. 30, 1997

Dear C.C.C. Development Dept.,

We feel the Cowell Ranch project
will cause a horrific traffic problem
for Brentwood.

At present, the traffic on Brentwood
Blvd. starts at 3am. We live near
that highway (highway #4). It is very
noisy.

73.01

Sincerely,

Josephine Merritt

Fred Merritt

GONTRA COSTA

97 FEB -3 AM 11:09

COMMUNITY
DEVELOPMENT DEPT



January 30, 1997

Mr. James W. Cutler
Assistant Director of Comprehensive Planning
Contra Costa County Community Development Department
651 Pine Street
Martinez, CA 94553-0095

CONIRA.GOSIA
97 JAN 30 AM 11:27
COMMUNITY
DEVELOPMENT DEPT

Subject: Comments on the Draft Environmental Impact Report for
the proposed Cowell Ranch project

Dear Mr. Cutler:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Cowell Ranch project. Our detailed comments (attached) were prepared in consultation with Terrell Watt, AICP, and the law firm of Shute, Mihaly & Weinberger.

Since our founding in 1958, Greenbelt Alliance has worked to protect open space in the Bay Area and make our communities better places to live. We believe that Cowell Ranch will have a devastating effect on Contra Costa County's environment and quality of life and that the DEIR underestimates the very serious impacts of this misguided project. We therefore recommend that the project be denied.

74.01

Based on our analysis, we have concluded that the DEIR for Cowell Ranch fails to satisfy the requirements of the California Environmental Quality Act ("CEQA," Public Resources Code § 21000 et seq.). If the County elects to continue considering the Cowell Ranch project, the DEIR must be thoroughly revised and recirculated for additional public comment. The current DEIR is misleading and fails to provide the analysis and information required by CEQA.

The DEIR Fails to Live Up to CEQA's Mandate

Under the California Environmental Quality Act (CEQA), the EIR must provide a sufficient degree of analysis and detail about a project's likely impacts to allow decision makers to make intelligent judgments about the

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EAST BAY OFFICE • 500 Ygnacio Valley Road Suite 250, Walnut Creek CA 94596 • (510) 932-7776 • Fax (510) 932-1970
email: greenbelt@igc.apc.org • web site: <http://www.greenbelt.org/gba>

environmental consequences of their decisions (CEQA Guidelines section 15151). The DEIR fails to live up to CEQA's mandate in five key areas:

- The DEIR defers all meaningful analysis of the impacts of providing the proposed project with water and sewer service. Contrary to CEQA's requirements, the DEIR simply indicates "potential " methods of providing those services and provides no information regarding the feasibility (i.e. costs to taxpayers or home buyers) or impacts of those methods.
- The DEIR does not disclose critical information regarding existing environmental conditions in the project area. The public therefore lacks information on such important issues as existing constraints on the local transportation system, existing threats to fish and wildlife, and existing land use patterns that have the potential to undermine the DEIR's assumptions.
- The DEIR underestimates the likely extent and severity of the project's impacts. Where the DEIR identifies significant impacts, it repeatedly concludes that these impacts can be mitigated based on little or no evidence. CEQA clearly demands that an EIR's conclusions be supported by substantial evidence. The DEIR, in contrast, frequently offers little more than speculation to support its conclusions that a particular mitigation measure will reduce the severity of a significant impact.
- The DEIR omits consideration of a reasonable range of alternatives to the project that could avoid its negative impacts such as a land swap to relocate the proposed development to available infill sites where infrastructure is already in place. CEQA requires that the public and decision makers be given an opportunity to consider a project's impacts in the context of reasonable environmentally superior alternatives to the proposed project.
- The DEIR fails to analyze and properly characterize the significant, unavoidable growth-inducing impacts of the project.

74.01

The DEIR is Inconsistent With Contra Costa County's General Plan

The proposal to create a major new urban community, partly outside the Urban Limit Line (ULL) and within the agricultural core, conflicts with the County's General Plan. Amending those provisions to permit the Cowell Ranch project would undermine the spirit and content of the General Plan and set a precedent for growth within areas currently protected by provisions and policies of the County's General Plan.

74.02

In addition, numerous other provisions would have to be amended in order to maintain the internal consistency of the County's General Plan, including:

- the provision which requires a balance of jobs to housing within new urban growth areas;
- the provision encouraging infill development;
- the provision which seeks to maintain existing open space between cities and communities;
- the provision which seeks to keep areas not suitable for urban development in their present use until the needed infrastructure can be assured of being provided; and
- the provision which seeks to protect hillsides with a grade of 26 percent or more and restrictions on mass grading.

74.02

The DEIR fails to describe the magnitude of the changes that will be required in the General Plan to accommodate the project. As a result, the DEIR deprives the public and the County of a true understanding of the project's impacts.

Cowell Ranch Will Have Severe Impacts on the County

The proposed Cowell Ranch development has generated widespread concern in Contra Costa County -- and for good reason. If approved and developed, Cowell Ranch will have a severe and irreversible effect on the quality of life in Diablo country. Among its most serious impacts are:

- **Increased Traffic Congestion:** Marsh Creek Road would be closed by the project. Existing cities would be called on to subsidize new road construction, although the new development would push traffic on these new roads beyond capacity. And bottlenecks throughout the region, from Route 4 to the Bay Bridge toll plaza, would become worse.
- **Worsened Air Quality:** Emissions from new traffic would push local air pollution beyond minimum standards.
- **Loss of Open Space:** The project would result in the loss of approximately 1,269 acres of Greenbelt land and dramatically increase development pressure on surrounding agriculture. Views from County designated scenic routes and popular regional parks such as Mount Diablo and Morgan Territory Regional Park would be destroyed.

74.03

- **Threats to Agriculture:** Over 350 acres of some of the richest prime soils in the world, including an orchard that produces 20 percent of the County's apple crop, would be lost to urbanization. Urban-rural conflicts would impact neighboring farms, making agricultural operations more difficult.
- **Threats to Wildlife:** Potential habitat for the San Joaquin kit fox would be lost, as well as California tiger salamander and vernal pool shrimp habitat and 28 acres of wetlands and other aquatic habitat.

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Each of these impacts raises serious concerns about how Cowell Ranch will damage the quality of life for residents living in the East Bay. Taken together, they make a compelling case against Cowell Ranch.

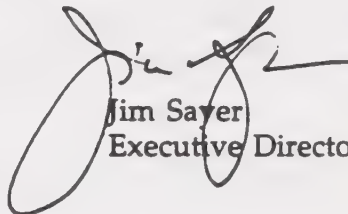
Given the severe environmental impacts of the proposed Cowell Ranch project and the numerous legal inadequacies in the DEIR, we urge the County to deny the project or, at minimum, to direct staff to prepare a revised DEIR addressing a broader range of alternatives and curing the defects described above and in the attached comments.

We hope that you will find our comments helpful as you review the Cowell Ranch project. Please do not hesitate to contact Tom Mooers at 510-932-7776 if you have any questions.

Sincerely,



Tom Mooers
East Bay Field Representative



Jim Sayer
Executive Director

cc: Supervisor Joe Canciamilla
Supervisor Mark DeSaulnier
Supervisor Donna Gerber
Supervisor Jim Rogers
Supervisor Gayle Uilkema
Commissioner Joann M Pavlinec
Commissioner Hyman Wong
Commissioner Kelly Guncheon
Commissioner John Hanecak
Commissioner Carmen Gaddis
Commissioner Marvin Terrell
Commissioner Richard Clark

COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT
COWELL RANCH GENERAL PLAN AMENDMENT,
REZONING, AND RELATED ENTITLEMENTS
County File # 1-92-CO, Rezoning #RZ933014

SUBMITTED BY
GREENBELT ALLIANCE

January 29, 1997

I. INTRODUCTORY COMMENTS

These comments on the Draft Environmental Impact Report ("DEIR") for the proposed Cowell Ranch General Plan Amendment, Rezoning and related entitlements ("project") are submitted by Greenbelt Alliance. The comments were prepared by Terrell Watt, AICP, Planning Consultant, in consultation with the law firm of Shute, Mihaly and Weinberger. Incorporated by reference and attached hereto is a copy of "Contra Costa County, Land Use or Abuse," April 9, 1996, Attachment A.


The purpose of these comments is to ensure that adequate information and a sufficient degree of analysis is contained in the DEIR so that the public and the decision-makers are informed of the environmental consequences of the proposed project. Following careful review of the project proposal, the DEIR and the County's General Plan, Greenbelt Alliance has concluded that the DEIR fails to satisfy the most fundamental requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines: to provide an adequate analysis of the project and project alternatives to allow informed decision-making. The major reasons why this DEIR is inadequate and why this project should not be approved at this time are set forth below:

A. The Significant Unavoidable Impacts Warrant Rejection of the Project

According to the DEIR, the proposed project would result in at least 19 significant unavoidable impacts including:

1. a substantial, irreversible project-related and net loss of approximately 1,269 acres of open space and agricultural lands (Impact LU-1);
2. a substantial alteration of the existing physical arrangement of the Brentwood community (Impact LU-4);

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3. a substantial alteration and loss of the existing rural character of the south Brentwood area (Impact LU-6);
4. a growth-inducing impact on open space land south of Camino Diablo (Impact L-9);
5. conversion of over 350 acres of productive prime farmland to urban development or to permanent, non-agricultural open space (Impact AG-1);
6. increased conflicts between project and agricultural traffic on public streets (Impacts AG-4 and AG-5);
7. the precedent setting effect of encouraging development on approximately 133 acres of County-designated Agricultural Core and cultivated agricultural land (Impact AG-6);
8. significant unavoidable traffic impacts on traffic conditions at SR 4 and Vasco Road, at a minimum (Impact T-1);
9. creation of an unmet demand for transit service (Impact T-12);
10. the cumulative alteration of the East County landscape and loss of local rural, small town character (Impact V-1);
11. the project's impact on the pastoral, rural character of the area (Impacts V-4, 5 and 6);
12. the impact on views from Round Valley Regional Park and Morgan Territory Regional Preserve (Impacts V-8 and 9);
13. the visual impacts of the transmission lines and park uses near the lines (Impact V-11);
14. air quality impacts of reactive organic and oxides of nitrogen and PM-10;
15. cumulative noise impacts along Concord Avenue, Camino Diablo and Walnut Blvd.
- 74.04

Even in listing 19 significant unavoidable impacts, the DEIR understates the impacts this project will have on the environment. For example, the list of significant unavoidable impacts in the DEIR does not include the numerous significant

General Plan policy inconsistencies that would result from project approval. Nor does the list include at least a dozen more impacts which warrant identification in a revised DEIR as significant and unavoidable due to the lack of evidence to support a conclusion that they would be reduced to less-than-significant by proposed mitigation measures. These additional significant and unavoidable impacts include, but are not limited to: lack of a long-term, secure water supply, inadequate wastewater treatment service, inconsistencies with the General Plan that result in physical environmental impacts, impacts to biological resources, impacts as a result of development in areas of geologic hazards, and impacts to water quality and groundwater, among others.

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This extensive list of significant unavoidable impacts is reason enough to reject the project at this time. Moreover, there is nothing in the record that identifies overriding considerations (economic, social or otherwise) that could overcome the environmental harm associated with this project.

B. The DEIR Fails to Live Up To CEQA's Mandate

An EIR must provide a degree of analysis and detail about environmental impacts that will enable decision-makers to make intelligent judgments in light of the environmental consequences of their decisions. CEQA Guidelines section 15151. To this end, the lead agency must make a good faith effort at full disclosure of environmental impacts. Id.; Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692, 712 (1990). The public and decision-makers need to understand fully the implications of the proposed project. This DEIR fails to provide sufficient information to allow the selection of the environmentally superior and legally adequate project or project alternative.

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The DEIR misstates or omits critical project information with the result that the implications of the proposed project and project choices are either obscured or altogether hidden from public view. One of the most important of these omissions is the failure to provide sufficient information to allow for a meaningful analysis and comparison of alternatives to the project. While the DEIR compares the alternatives with the proposed project, it does not provide the information necessary to compare the alternatives against each other in a meaningful way. Moreover, the mitigated alternative fails to "mitigate" or address many of the most severe environmental impacts of the project.

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Major defects in the DEIR include:

1. The project description and setting sections omit critical information. For example, the

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project description fails to including a complete list of all necessary conforming amendments to the County's General Plan. The setting sections fail to adequately describe the biological resources within the project area and in areas impacted by cumulative projects. This missing information renders the analysis of project-related and cumulative impacts incomplete and misleading.

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2. Insufficient evidence is provided to support the DEIR's conclusion that numerous potentially significant impacts would be reduced to less-than-significant by mitigation measures. As a result, the DEIR understates the likely extent and severity of the project's impacts. Such significant impacts include lack of a secure and long-term water supply, lack of wastewater treatment service, project-related and cumulative impacts to biological resources, among other impacts improperly identified as less-than-significant after mitigation.

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3. The DEIR fails to analyze and properly characterize the significant unavoidable growth inducing impacts of the project.

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4. Mitigation measures, relied on to reduce potentially significant impacts to an acceptable level, are in many cases infeasible due to funding and political constraints. Other feasible measures are not identified in the DEIR.

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5. The DEIR defers all meaningful analysis of the impacts of providing the proposed project with water and sewer service. Contrary to CEQA's requirements, the DEIR simply indicates "potential" methods of providing those services and provides no information regarding the feasibility or impacts of those methods.

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6. The DEIR omits consideration of a reasonable range of project alternatives that could address the significant impacts of the project.

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A revised DEIR must be prepared which contains adequate information to support an informed decision on the project. Each of the foregoing legal deficiencies is described in greater detail below.

C. The Proposed Project Is Inconsistent with the County's General Plan and the Board's Guiding Principles for Development of the Cowell Ranch

Government Code Section 65300.5 requires that a county general plan and all of its elements remain at all times "an integrated, internally consistent and compatible statement of policies" The courts have emphasized that this "consistency" requirement is at the very heart of California's General Plan law:

"The requirements of internal integration and consistency in section 65300.5 must be read in light of the recognized purposes of a general plan [W]e recently described those purposes as follows: 'The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to "a constitution for all future developments." . . . '

If a general plan is to fulfill its function as a 'constitution' guiding 'an effective planning process,' a general plan must be reasonably consistent and integrated on its face. A document that, on its face, displays substantial contradictions and inconsistencies cannot serve as an effective plan. . . ." Concerned Citizens of Calaveras County v. Board of Supervisors, 166 Cal.App.3d 90, 97 (1985).

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The proposal to create a major new urban community, partly outside the Urban Limit Line ("ULL") and within the agricultural core ("Ag Core"), will result in internal inconsistencies in the County's General Plan. Despite this fact, the only General Plan amendments identified in the DEIR are to the land use designations and ULL. Numerous other goals, provisions and policies require amendment to maintain internal consistency of the County's General Plan. The DEIR's project description lacks any details about these necessary General Plan amendments.

The project is inconsistent with many of the fundamental provisions of the General Plan. The result of amending those provisions to accommodate the project would be to undermine the General Plan and facilitate growth within areas currently protected by the provisions and policies of the County's General Plan (e.g. including, but not limited to the ULL regulations, Ag Core policies and land use designations, among other provisions).

Major provisions and policies that would be undercut by the County's proposed action include but are not limited to the following:

- Protection of lands in the Agricultural Core;
- Prohibition of large scale urban development outside the ULL within the duration of the General Plan (i.e. until 2005);
- Provision of a balance of jobs to housing within new urban growth areas;
- Encouragement of infill;
- Maintenance of existing open space between cities and communities;
- Areas not suitable for urban development because of lack of availability of public facilities shall remain in their present use until the needed infrastructure is or can be assured of being provided; and
- Protection of hillsides with a grade of 26% or greater and restrictions on mass grading.

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The proposed project would convert rural and agricultural lands to large scale urban development without any analysis of the potential need to retain these lands for agriculture and open space, or of the impact of this conversion on the integrity of the applicable General Plan goals, provisions and policies. Only the short section of the DEIR (less than one page) concerning growth inducing impacts suggests that this project "could encourage ULL adjustment requests elsewhere in the county." The DEIR fails to analyze the likely impacts of this result.

Finally, the approval of the proposed project would violate the guiding principles adopted by the Board of Supervisors on May 12, 1992 for any future development of the Cowell Ranch:

Principle 5: The planning and development of Cowell Ranch should be internally consistent with the Goals and Policies of the General Plan and the voter approved policies set forth in the Measure C 65/35 Land Preservation Plan.

The project cannot properly be approved if it would result in internal inconsistencies in the General Plan. In addition, the DEIR has failed to identify the inconsistencies that would occur as a result of the project. For these reasons alone, the project may not properly be approved as currently proposed or as modified by the mitigated alternative.

II. DETAILED COMMENTS ON ADEQUACY OF ENVIRONMENTAL ANALYSIS

A. The Project Description Omits Information Critical to Informed Decision-Making

The DEIR is inadequate because it fails to describe the proposed project accurately or completely. One of the most important CEQA requirements is that an EIR contain an adequate description of the proposed project. As one court put it, "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 192-193 (1977). "Project" is defined in section 15378(a) of the CEQA Guidelines as "the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately. . . ." For purposes of conducting environmental review, the lead agency should define the project broadly to ensure a complete analysis of impacts resulting from future expansion or continuation of the initial aspects or phases of the project. Laurel Heights Improvement Assn v. Regents of University of California, 47 Cal.3d 376, 396 (1988). In addition, the project description must contain a general description of the project's technical, economic, and environmental characteristics. CEQA Guidelines section 15124(c). In this case, the DEIR fails to describe the project adequately in several critical respects, including, but not limited to, the following:

1. The project description fails to list all of the conforming amendments necessary to maintain internal consistency in the County's General Plan.
2. The description lacks adequate information concerning the necessary public services and facilities to serve the project including, but not limited to water supply and wastewater treatment service and flood control improvements. Absent a complete description of these services and facilities, the DEIR's analysis of project impacts is incomplete.
3. The project description lacks a general description of the project's economic characteristics (e.g. the general costs of completing the major infrastructure necessary to serve the project). This description is critical to the DEIR's analysis of whether public services and facilities can be provided in a timely manner. In addition, a description of the project's economic characteristics is key to a determination of project feasibility including feasibility of

implementing mitigation measures. This information would also support an analysis of whether the project's non-residential component is feasible and when it is likely to be implemented.

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4. The project description lacks market information to support the description of project phasing (e.g. concurrent build-out of residential and non-residential uses). Indeed, the only market information contained in the DEIR suggests that there is no existing market for additional commercial and office uses in the area. DEIR, page IV.A-41. Such information is required because major assumptions regarding project-related impacts are based on this information. Therefore, the DEIR must contain evidence to support the validity of the assumptions.

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5. The project description lacks a reference to a fiscal analysis that verifies the project's ability to implement the necessary infrastructure to support the project and to implement mitigation measures relied on to reduce potentially significant impacts to less-than-significant. For example, the DEIR concludes that potentially significant impacts related to water supply, wastewater treatment, traffic and flood control, among others, will be reduced to a level of less-than-significant. This conclusion is based on the ability of the project to fund needed flood control improvements, major roadway improvements and massive new water and wastewater supply and distribution systems. Therefore, the DEIR must include a fiscal analysis to support these conclusions. Alternatively, such an analysis could be completed as a separate document and referred to in the DEIR.

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In addition to these omissions in the project description, the DEIR improperly segments analysis of the complete development of Cowell Ranch.

As noted above, "project" is defined in section 15378(a) of the CEQA Guidelines as "the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately. . . ." Courts have interpreted this definition to mean that "[a] public agency is not permitted to subdivide a single project into smaller individual subprojects

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in order to avoid the responsibility of considering the environmental impact of the project as a whole." Orinda Assn. v. Board of Supervisors, 182 Cal.App.3d 1145, 1171 (1986). The term "project" is to be interpreted broadly to maximize protection of the environment and ensure "that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, 27 Cal.App.4th 713, 730 (1994) (quoting Bozung v. Local Agency Formation Com., 13 Cal.3d 263, 283-84 (1975), Burbank-Glendale-Pasadena Airport Authority v. Hensler, 233 Cal.App.3d 577, 592 (1991)). The EIR must treat all reasonably foreseeable related future projects as part of the project for purposes of conducting an environmental analysis. Laurel Heights Improvement Assn., 47 Cal.3d at 396 (1988). The project, as described in the DEIR, fails to encompass the entire Cowell Foundation ownership. See Figure 5. The reasons stated in the DEIR for omitting portions of the ownership are not clear. However, for purposes of Alternative B, it appears that the entire ownership is analyzed. This omission in the project description results in an improper segmenting of the project. Clearly, development of a large scale urban community on portions of the ownership could induce growth on the remaining areas of the Cowell Ranch. The DEIR must analyze this likelihood, either as part of the project-related impacts, or as part of the cumulative analysis.

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A revised DEIR must be completed which includes the information omitted from the project description. Without a complete description of the project, the analysis of project impacts cannot be adequate.

B. The Description of the Project Setting Omits Information Critical to an Informed Decision

A DEIR "must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and regional perspective." CEQA Guidelines section 15125. This requirement derives from the principle that "[k]nowledge of the regional setting is critical to the assessment of environmental impacts." Id. Lacking an adequate description of a project's environmental setting, it is "impossible for the [EIR] to accurately assess the impacts the project [would] have on wildlife and wildlife habitat or to determine appropriate mitigation measures for those impacts." San Joaquin Raptor, 27 Cal.App.4th at 722 (quoting with approval argument made by the challengers of the EIR).

If impact analyses are based on an incomplete, out-dated or inaccurate setting, the results of those analyses cannot be relied on for CEQA compliance. Further, failure to consider the

project's entire environmental setting leads to a lack of analysis of impacts in those omitted areas.

In some cases the environmental setting information provided in the DEIR is incomplete, vague or insufficiently documented to permit adequate analysis and characterization of environmental impacts. Specific examples of inadequate setting information include the following:

1. An adequate explanation of all potential, feasible, sources of long-term, secure water supply and the current and foreseeable demand for those water supplies. The DEIR identifies a number of potential sources that are not feasible and fails to clearly describe current and foreseeable demand for each supply "option".
2. An adequate geographic study area for analysis of transportation impacts (e.g. Ygnacio Valley Road and Kirker Pass Road are excluded and must be included in an adequate setting and impact analysis for traffic impacts). The Contra Costa Transportation Authority's Technical Procedures require that traffic studies include all intersections where 50 or more trips, and 69 intersections that meet this threshold in the year 2026. Based on the CCTA's procedures, the geographic study area for the project and cumulative traffic analysis should be expanded to include the required intersections.
3. An adequate description of on-site and regional biological resources that are currently jeopardized by the project in combination with approved and foreseeable development. Only a cursory description of these local and regional resources is provided in the cumulative discussion of biological resource impacts (e.g. surveys for special status species that likely reside in on- and off-site creek and channel habitats are not provided in the DEIR). A much more detailed description is necessary to adequately assess both project-related and cumulative impacts to these resources and to determine whether additional losses of habitat can be sustained.
4. An adequate description of competing areas designated for non-residential development including the uses proposed for the Cowell

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Ranch. Only a limited description of commercial and office development areas is provided for the City of Brentwood. Other areas within the region should be included in the setting. This information is critical to an evaluation of how the non-residential uses on the Cowell Ranch may impact existing designated but as yet undeveloped business and commercial areas, as well as to accurately assess the need for additional lands designated for such uses in the East County. Moreover, this information would facilitate a more complete analysis of where residents of the Cowell Ranch might be employed. See also Attachment A for a description of existing conditions.

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5. An adequate description of competing areas designated for residential uses. This information is critical to assessing the demand for housing in this location as compared with meeting demand in infill areas currently designated for housing.

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6. A description of the status of existing development's ability to pay its own way for essential services. Many recent studies have shown that sprawl costs more to service in the long run than it returns in local taxes and development fees. See Attachment A, page 15-16. Setting information regarding the shortfall in existing development to pay its own way in the East County is critical to describing service shortfalls as compared with those created by the project. For example, there is an existing shortfall of water and wastewater treatment in the East County to serve approved development. This shortfall should be contrasted to the impact of the project. Funding shortfalls, both existing and those exacerbated by the project, are critical to a determination of project feasibility.

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7. A complete description of regional agricultural uses and production. This information is key to the cumulative analysis of agricultural impacts.

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8. An adequate description of the regional school setting and existing plans for addressing the demand for school services and facilities.

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C. The DEIR's Analysis of Environmental Impacts Prevents Informed Decision-making By Obfuscating and Understating the True Extent of Project-Related Impacts

Critical to the environmental analysis is the determination of significant environmental effect. The Guidelines define the term "significant effect on the environment" as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." (CEQA Guidelines, section 15382; Pub. Resources Code, section 21068). Moreover, CEQA requires that the project setting be defined as "existing physical conditions" to allow comparison of future conditions that would result from the project.

In judging the sufficiency of an EIR, the focus is on adequacy, completeness and a good faith effort at full disclosure. The document should provide a sufficient degree of analysis to allow decision-makers to make intelligent judgments. CEQA Guidelines section 15151. A number of court decisions have developed criteria for determining what constitutes a "reasonable" effort to analyze a project's potential impacts. See e.g., Kings County Farm Bureau v. City of Hanford, 221 Cal.App. 3d 692 (1990), which emphasizes that an EIR must support with rigorous analysis and substantial evidence the conclusion that environmental impacts will be insignificant.

In this case, the DEIR lacks support for many of its conclusions and violates CEQA's fundamental principle that even if an EIR concludes that an impact is insignificant, it must provide "facts and analysis" so that the public can understand and evaluate its conclusions. Laurel Heights Improvement Assn., 47 Cal.3d at 404. Specifically, the DEIR found that a number of potentially significant impacts would be mitigated to a level of insignificance after mitigation. In addition, there are numerous impacts that the DEIR declares will be insignificant without providing sufficient evidence or analysis to support that conclusion. DEIR, page VI-5. In both cases, the DEIR lacks the evidence to support the conclusion that these impacts are insignificant either before or after mitigation.

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Courts have not hesitated to overturn certification of an EIR where the EIR presents unsupported conclusions regarding a project's impact on the environment. For example, in Santiago County Water District v. County of Orange, 118 Cal.App.3d 818, 831 (1981), the court found inadequate an EIR's unsupported conclusions regarding a mining project's impact on water service. Similarly, in Mountain Lion Coalition v. California Fish & Game

Commission, 214 Cal.App.3d 1043, 1051-52 (1989), the court held that an EIR's mere reference to a population model predicting that no significant long-term impact to wildlife would result from a proposed mountain lion hunt, did not explain how it reached its conclusion. See also Whitman v. Board of Supervisors, 88 Cal.App.3d 397, 411 (1979), quoting, People v. County of Kern, 39 Cal.App.3d at 841-42 (cumulative impacts analysis of drilling project violated CEQA where analysis was "unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind . . .").

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Like the EIRs in Santiago County Water District and Mountain Lion Coalition, the DEIR for the proposed project fails to provide facts or analysis to support many of its conclusions, and therefore fails to provide adequate information to support informed decision-making. A list of specific defects in the DEIR's analysis of project-related and cumulative environmental impacts is as follows:

1. Critical Assumptions Are Not Supported By Facts

The DEIR's characterization of a number of impacts as less-than-significant relies on the assumption that the project will generate onsite jobs for onsite employed residents. See DEIR at page IV.A-57-58. Indeed, the DEIR states that "...it is estimated that there would be more onsite jobs than onsite employed residents during the initial phases of the project." DEIR, page IV.A-57. The project assumes that a substantial amount of non-residential uses will be built in the early phases of development. This assumption is contrary to patterns of large new development projects statewide. Examples of areas where planned commercial development lagged housing development are numerous (e.g. new development in East Contra Costa, Laguna West in Sacramento, the Newport Coast in Orange County, among others).

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The DEIR lacks any basis for accepting the jobs/housing assumptions that underlie numerous impact analyses (including traffic, air quality and policy impacts). For example, no market data or project economic information is provided to support the contention that non-residential and residential uses will be built concurrently. Nor is any evidence provided that the residents will be the employees in the jobs created by the project. To the contrary, the DEIR points out numerous reasons why the jobs/housing balance may not be consistent with County and City general plan policies. See DEIR at page IV.A-57. Job prospects within the local East County area are also unlikely in the near term. While jobs are projected in Antioch at FUA#2, the FUA#2 Plan states that 1,300 homes need to be built at the front end to cover the infrastructure costs before the business park can be built.

The assumption that jobs will be provided for residents on-site at a high ratio is also a key assumption in the East County Traffic Model. A number of potentially significant impacts are characterized as less-than-significant based on this assumption. (See e.g. Impact LU-11: Onsite Job/Housing Balance). Yet, no evidence is provided to support the assumption that future residents of Cowell Ranch will be employed in Cowell Ranch jobs (e.g. will new housing be affordable to employees at retail establishments in the area? How will housing prices/rents compare with salaries within the Cowell Ranch project?) This and other information concerning the jobs/housing ratio assumptions is critical to accepting the jobs/housing ratio assumptions in the DEIR.

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Mitigation measures proposed to ensure that jobs/housing ratios will be met are unproven and possibly legally vulnerable (e.g. limit the issuance of future onsite building permits if job creation goals are not met, DEIR, page IV.A-61). Yet the DEIR relies on such measures to characterize potentially significant impacts as less-than-significant. See DEIR, page IV.A-59.

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The DEIR must be revised to include supporting evidence for the assumptions concerning the phased and ultimate jobs/housing ratios. In addition, the DEIR must analyze the impacts of slower job creation in proportion to housing since this outcome is more likely based on development trends and facts in evidence (e.g. impacts including additional traffic on the road network, including but not limited to, Vasco, SR-4, SR-4 Bypass, Kirker Pass Road, Ygnacio Blvd., and Marsh Creek Road; additional air pollution associated with increased commuter trips; other policy inconsistencies).

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2. Traffic Impacts Are Underestimated

The DEIR fails to adequately analyze and characterize the significant adverse impacts of the project on local and regional traffic. Specifically, the DEIR and the East County Traffic Model relied on for the DEIR traffic analysis underestimate traffic impacts by: a) undercounting the number of vehicle trips generated by the project, b) underestimating trip length, c) omitting intersections impacted by the project from the analysis, and d) overestimating the number of residents that will be employed on-site or nearby. In addition, traffic improvements assumed to be completed and relied on in the DEIR in characterizing impacts as less-than-significant, are unlikely to be implemented due to a combination of factors including lack of funding and improvement project's which are outside the County's jurisdiction and unacceptable to the impacted jurisdiction.

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a. Roadway Improvement Funding is Uncertain

The DEIR concludes that a number of traffic impacts will be less-than-significant based on roadway improvements being completed. At the same time, the DEIR makes reference to the East County Transportation Plan dated July 19, 1995 and at page IV.C-1 to the fact that "[t]he source of the balance of funds needed for identified subregional roadway needs remains uncertain." While there is a mitigation fee in place that will provide partial funding for widening some stretches of Highway SR-4 east of Pittsburg, the majority of these and other road projects are unfunded. The amount of money needed to fund these road widenings and improvements is enormous and the prospects of raising the necessary funding in today's economic climate is unrealistic. Moreover, the competition for limited dollars for these improvements is tremendous. Both of these are ignored in the DEIR. For example, a significant proportion of traffic leaving the project will likely travel south via Vasco Road or southeast via the Byron Highway. These are the only roads exiting East County in those directions. The DEIR indicates that these roads will be operating at LOS F by 2010 and beyond. DEIR, page IV.C-56. No source of funding is identified for the needed improvements to these roads. Moreover, Alameda County has opposed widening these roads. The DEIR should be revised to analyze the impacts of the project on traffic without improvements for which funding is uncertain. See also Attachment A, pages 19 and 31-36.

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Moreover, the costs of needed roadway improvements are not quantified. Nor is the shortfall in funding estimated. This information must be included in a discussion of potential impacts to the roadway network.

b. Trip Length Estimates Are Unsupported by Evidence and Unrealistic

The DEIR estimates that approximately 92% of the outward AM vehicle trips generated by the project will be within 12 miles of the project site. See DEIR at page IV.C-46. For the reasons stated above related to the jobs/housing ratio assumptions, this estimate is unrealistic and unsupported by evidence in the DEIR. The DEIR analysis of traffic and air quality impacts must be revised to reflect a more realistic trip length (e.g. 30 - 70 miles; a realistic distance range to employment centers).

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3. Air Quality Impacts Are Underestimated and Health Risks from PM-10 Are Not Disclosed

The DEIR also fails to adequately analyze and characterize the significant adverse impacts of the project on air quality primarily as a result of increased traffic and construction period activities.

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Moreover, the proposed project conflicts with the goals and policies of the County's General Plan related to air quality. Contrary to General Plan goals and policies, the project would result in numerous significant unavoidable air quality impacts and further burden the stressed transportation system. These inconsistencies emphasize the problems associated with urban development at the urban fringe and beyond. More aggressive mitigation measures must be included in the DEIR to address these General Plan inconsistencies and significant unavoidable impacts (e.g. shuttle service to job centers and downtown Brentwood if other forms of transit are not feasible, design modifications that would facilitate travel by foot and bicycle and the like).

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In addition, the DEIR must be revised to include a health risk analysis of project-related and cumulative PM-10 emissions. The analysis should include dust from the Unimin Kellogg Creek Sand Quarry; a cumulative project not included in either the air quality or nuisance analyses in the DEIR.

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4. Water Supply Impacts Are Improperly Characterized as Less Than Significant After Mitigation

The DEIR fails to identify a secure provider of long-term potable water for the project. Although a number of possible providers are mentioned in the DEIR, none are assured. For example, the inclusion of Brentwood as a water purveyor is misleading since Brentwood's source of water is from wells which are not dependable and are subject to water degradation; a fact not mentioned in this section of the DEIR. The narrative should also clarify that the 7,000 acre-feet currently being supplied to Brentwood is for temporary use only. Moreover, CCWD should not be identified as a water purveyor since its water supply is limited to those users within its borders when Los Vaqueros Reservoir was approved. More detailed information is needed concerning the circumstances surrounding the approval of the bonds for Los Vaqueros Reservoir policies regulating this use of water from the Reservoir.

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This approach is simply not adequate under CEQA. CEQA requires that environmental impacts be analyzed and disclosed, and mitigation measures be adopted and incorporated into the project before it is approved. In a recent court decision, Stanislaus Natural Heritage Project v. County of Stanislaus, 55 Cal.Rptr.2d 625 (1996), the court of appeal affirmed that CEQA prohibits public agencies from approving large development projects unless the impacts of supplying water for the project have been adequately analyzed. The court found that "the environmental consequences of supplying water" to the project was one of the most fundamental matters to be addressed at the very first phase of environmental review. Id. at 635. Where the consequences of supplying water to large development projects

potentially significant impacts are reduced to less-than-significant after mitigation. The majority of identified mitigation measures consist of subsequent geologic/geotechnical investigations, and limitations (such as on grading) and detailed design criteria to be established at some future time. It is not possible to determine to what extent such future limits and criteria will reduce potentially significant impacts. Measures omitted from discussion include specific grading limitations and identification of areas where development should not occur which would mitigate policy inconsistencies and physical impacts of the project. For example, Mitigation SG-8 requires "mapping and evaluation of potentially unstable areas, avoidance of areas that are inappropriate for mass grading...". DEIR, page IV.D-45. The mapping must be completed at this early stage of planning so that areas unsuitable for development are avoided at the Master Plan stage. This could result in reducing the total amount of development, among other fundamental modifications to the project. Moreover, absent such specific mitigation measures, a finding that soils and geology impacts are reduced to less-than-significant cannot be supported.

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In addition, none of the clear General Plan policy inconsistencies related to soils and geology are identified in the section as impacts. County General Plan policies include protection of hillsides over 26% slope from development and prohibitions on extensive grading and land disturbance on hillsides with slopes of 26% or more (See Conservation Policy 8-14 and Safety Policy 10-29, among others.) A revised DEIR must be prepared which properly identifies these impacts as significant and unavoidable if mitigation measures are not developed which clearly reduce the impacts to less-than-significant. In addition, the project description must include proposed conforming amendments to these Conservation and Safety policies, if the project is to be approved as proposed.

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8. Flooding Impacts Are Improperly Characterized as Less-Than-Significant After Mitigation

The DEIR identifies at least 5 potentially significant impacts related to flooding of creeks and channels in the project area. Each of these potentially significant impacts is purportedly reduced to less-than-significant after mitigation. There is no analysis or evidence in the DEIR to support the conclusion that proposed mitigation measures would reduce the flooding impacts generated by the project to a level of insignificance.

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Future flood control improvements that could be capable of reducing project-related impacts are not described in the DEIR. Moreover, the impacts of necessary flood improvements on biological resources including habitat to special status species, are not analyzed or disclosed (e.g. flood control improvements

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are likely to impact habitat to the red-legged frog, Long Horned Fairy Shrimp, and other special status species that reside in the creek and channel habitats on and off the site). A revised DEIR must be prepared which properly identifies these impacts as significant and unavoidable if mitigation measures are not developed which clearly reduce the impacts to less-than-significant. Surveys for these species, not already completed, must be completed and the results included in a revised DEIR (e.g. a specific survey of Kellogg Creek for Fairy Shrimp and other channels and drainages for the red-legged frog and California Tiger Salamander).

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9. Growth Inducing Impacts are Not Analyzed

The DEIR fails to identify the growth inducing effects associated with the project as significant and unavoidable in its brief, 1-page discussion of growth inducing effects. This discussion is not supported by analysis or evidence in the DEIR.

Indeed, the project by definition is growth inducing in that it will introduce major urban development outside the ULL and within the Ag Core. The DEIR provides no evidence that the project will not induce significant growth as a result of the extension and expansion of services to the site and as a result of the precedent set by permitting major urban development in the agricultural core and outside the established ULL. To the contrary, the DEIR acknowledges -- yet fails to analyze -- the following:

"If the requested General Plan Amendment were granted, it could encourage owners of other nearby property currently designated for agriculture or rural use to seek similar General Plan Amendments to permit urban development. Similarly, the proposed Urban Limit Line modification, while it would result in no net change in the number of acres within the ULL, could encourage ULL adjustment requests elsewhere in the county in order to allow similar urban development." DEIR, page VI-1.

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"Approval of the proposed project may encourage or accelerate future requests to allow similar urban development on [key] properties." DEIR, page VI-2.

"The extension of public facilities and services and increased roadway capacity to serve the project would also be growth-inducing, facilitating additional urbanization in the project vicinity."

There is no quantification or analysis of the likely impacts associated with the acknowledged implications of the project. A revised DEIR must be prepared, based on a revised and complete description of the proposed project, which analyzes the likely significant growth-inducing impacts of the project, related amendments to the general plan which may result in growth, and infrastructure expansions and extensions necessary to serve the project which are also likely to induce growth. Specifically, the following impacts must be analyzed:

- The service improvements likely to induce growth in the area and the amount of growth and related impacts associated with that growth (e.g. acres of prime agricultural land converted; traffic trip generation; acres of open space lost; etc.).
- Impacts to significant biological resources in the area as a result of growth inducement.
- Policy implications of such growth inducement.
- Other potential impacts to air quality and traffic as a result of the growth induced by the project.
- An estimate of the total acreage within the Ag Core and beyond the ULL that could be subject to requests for new urban growth based on the Cowell Ranch request.

These potentially significant impacts must be analyzed in a revised DEIR and identified as significant and unavoidable for the project and mitigated alternative. See CEQA Guidelines Section 15126(g) (describing what proper growth inducing impacts analysis should contain.)

10. Impacts to Farmland Are Understated

The DEIR understates impacts to farmland for a number of reasons including, but not limited to the lack of an adequate disclosure and analysis of the impacts of introducing urban development within the Ag Core and on prime farmland. Such impacts include agricultural theft and vandalism, the spread of unwanted weeds and pests, incompatible uses which force agricultural uses to cease, and air pollution associated crop damage. The DEIR must be expanded to properly disclose these significant impacts and develop specific mitigation measures to address such impacts.

11. Impacts to Brentwood Commercial Areas Are Improperly Characterized as Less-Than-Significant After Mitigation

There is a pattern in the DEIR of describing impacts as potentially significant and then concluding that the impacts are reduced to less-than-significant after mitigation with no supporting evidence. Another impact that falls into this pattern is the potentially significant impact to commercial retail and office development in Brentwood. The evidence provided in the DEIR suggests that this impact should be described as significant and unavoidable in light of the absence of a market for additional commercial uses in the area. DEIR, page IV.A-41. The basis for reducing this impact after mitigation to less-than-significant is not clear. Proposed mitigation calls for encouraging complementary commercial uses, but only to the extent feasible. A revised analysis, including additional, regional market information should be provided in a revised DEIR.

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12. Impacts to Existing and Planned Residential Areas

The project is likely to adversely impact existing and planned residential areas within infill areas. Yet, the DEIR fails to address this issue or analyze these likely impacts. Already residents are reporting declining home values because of the over-supply of housing in East Contra Costa County. The DEIR should address the potentially significant impacts of the project on existing and planned residential infill areas. Such impacts may include: a) creating blighted areas due to an over-supply of housing and, b) the environmental and economic impacts if infill areas do not build-out due to the over-supply of housing in outlying areas.

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13. Cumulative Impacts are not Adequately Quantified, Analyzed or Disclosed

The DEIR is inadequate because it fails to take the cumulative effects of the proposed project fully into account. The CEQA Guidelines require EIRs to discuss the significant cumulative impacts produced by the proposed project in conjunction with other closely related past, present, or reasonably foreseeable future projects. San Joaquin Raptor, 27 Cal.App.4th at 739 (1994). The Guidelines define "cumulative impacts" as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines sections 15355 and 15130. A cumulative impacts analysis must "reflect the severity of the impacts and their likelihood of occurrence." Id. "[A]n adequate cumulative analysis requires a list of projects producing related or cumulative impacts." San Franciscans for Reasonable Growth v. City and County of San Francisco, 151

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Cal.App.3d 61, 73, (1984). While a project list is included in the DEIR, it excludes those areas likely to develop based on the precedent set by the project for amendment of the ULL and other general plan policies, as well as the whole Cowell ownership. In addition, the DEIR fails to identify, let alone analyze, the cumulative impacts associated with the proposed general plan amendments and general plan land use changes from agricultural and open space uses to urban uses. Such cumulative impacts include but are not limited to:

1. Significant impacts to agricultural, habitat and open space lands as a result of additional urban development in the area.
2. Increased air quality and traffic impacts.
3. Impacts to agricultural uses and lands in the region.

In addition, the DEIR identifies cumulative impacts to biological resources as less-than-significant. The basis for this conclusion is in part "[b]ecause most of this cumulative development would occur on existing agricultural land with limited biotic value, and more biologically sensitive lands in the project vicinity are protected by the County's Urban Limit Line regulations, the cumulative impact of the project is considered to represent a **less-than-significant** impact." DEIR, page IV.G-59. This conclusion is not supported by any evidence. Specifically, no biological information is provided for the 21 projects currently under construction in the City of Brentwood or for the 28 other projects, encompassing 1,760 acres under consideration by the City. Nor is any analysis provided concerning the likely number of acres that would be destroyed which contain sensitive habitat and/or special status species. Moreover, this project proposes development outside the ULL, setting a precedent for future such requests. Therefore, a conclusion that cumulative biological resource impacts would be less-than-significant based largely on the argument that ULL regulations will preserve habitat is contradicted by the project. A revised DEIR should acknowledge that the cumulative loss of wildlife and vegetative communities in the region is significant and identify a regional mitigation mechanism that might reduce this cumulative impact.

D. The DEIR Omits Feasible Mitigation Measures and Overstates the Efficacy of Proposed Measures

Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects ...". Public Resource Code section 21002. Consequently, an EIR must

identify feasible measures to mitigate significant environmental impacts identified in the EIR. CEQA Guidelines section 15126(c). An EIR's environmental analysis may not conclude that environmental impacts have been mitigated below the level of significance while at the same time deferring the study and selection of mitigation measures. Sundstrom v. County of Mendocino, 202 Cal.App.3d 296, 306-07 (1988). In other words, an EIR may only conclude that an impact is insignificant if it contains an analysis of the magnitude of the impacts and the degree to which they will be mitigated.

The DEIR discussion of mitigation measures does not comply with either CEQA or relevant case law in several respects, including the following:

1. The DEIR Defers Analysis of Impacts and Formulation of Mitigation Measures

A long line of CEQA cases has held that mitigation measures that defer analysis of potentially significant environmental impacts and formulation of mitigation measures until after project approval violate both the letter and spirit of CEQA. (See, e.g., Sundstrom v. County of Mendocino, (1988) 202 Cal.App.3d 296; Oro Fino Gold Mining Corp. v. County of El Dorado (1990) 225 Cal.App.3d 872, 884-85; Gentry v. Murrieta City (1995) 36 Cal.App.4th 1359, 1393-97; Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 55 Cal.Rptr.2d 625. Here, the DEIR's environmental analysis concludes that significant impacts have been mitigated to less than significant based on a future study and future selection of mitigation. Examples include, but are not limited to, the following:

a. Soils and Geology Impacts

The majority of potentially significant impacts to soils and geology identified in the DEIR are purportedly mitigated by future studies and future selection of mitigation including limits to grading and areas to be avoided from mass grading and land alteration. See e.g. Impact SG-1, SG-2, SG-3, SG-4, SG-6, SG-7, SG-8, SG-10, SG-12 and SG-13. A number of the future studies specify that grading limitations and areas for avoidance should be identified. This is the appropriate time to map hazardous and steep areas that should be avoided. The information exists in the DEIR to identify areas over 26% which should be avoided.

Based on these future studies and future measures, the DEIR improperly concludes that the significant impacts will be less-than-significant. This contravenes CEQA's mandate to identify specific measures and describe how each measure reduces a targeted impact to a less than significant level. In this case, such a description is not possible, since the mitigation

measures are not sufficiently well developed. Specific mitigation measures to address significant soils and geology impacts must be identified in a revised DEIR and their efficacy for reducing impacts documented.

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b. Traffic Impacts

Similarly, the DEIR concludes that a number of potentially significant traffic impacts are reduced to less-than-significant by future studies and as yet unidentified mitigation measures. (See e.g. Impact T-5, requirement for future construction traffic plan; T-10/T-11, requirement for future revised local circulation plan; T-12, future transit service). In addition, many of the traffic measures rely on funding sources that are not yet identified. (See e.g. T-1 and T-2). The feasibility of these measures has not been adequately documented to support a conclusion that these traffic impacts will be less-than-significant after mitigation. Moreover, as described above, many of the necessary traffic improvements are politically unacceptable to the jurisdictions which must approve them. The DEIR must disclose these facts and reevaluate the disposition of the potentially significant impacts after implementation of feasible mitigation measures.

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c. Agricultural Impacts

The DEIR identifies as potentially significant, the project's impacts to remaining on-site and offsite agricultural uses. Again, future studies and plans would purportedly mitigate these impacts to less-than-significant. Such future plans include a draft Habitat Management Plan and Right-to-farm-Ordinance. Insufficient information exists in the DEIR to support the conclusion that these future documents will reduce on- and offsite impacts to agricultural uses. A revised DEIR must contain the details of such plans and describe how the plan components would actually reduce on- and offsite agricultural impacts.

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d. Water Supply and Sewer Treatment

For the reasons described in detail above, the identification of mitigation "options," rather than specific mitigation measures to address the lack of adequate water and sewer to serve the project, are required by CEQA. The future selection of an option, subject to substantial future study, is not a sufficient basis to identify these water supply and wastewater treatment impacts as less than significant after mitigation.

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e. Sheriff/Police and Fire Service

Impacts to sheriff, police and fire service are each identified as potentially significant before mitigation. The sole mitigation measure proposed is to require the applicant to prepare a Public Services and Facilities Plan that would specify funding and phasing of these services and facilities. Based on this mitigation measure, the potentially significant impacts are reduced to less than significant. A major component of the future Plan is a fiscal impact analysis to determine whether adequate police protection could be provided. Thus, at this point in time, there is no evidence that adequate police and fire protection can be feasibly funded in a timely manner. Therefore, these impacts should not be identified as less than significant after mitigation when substantial questions about the feasibility of providing such services have not yet been addressed.

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f. Schools

There is currently a shortage of adequate schools to serve East Contra Costa communities. Despite this shortage, the DEIR fails to adequately describe the existing regional school setting or present plans for providing school services and facilities. A major defect in both the proposed project and DEIR is the failure to identify a site for the needed high school. This failure also constitutes an inconsistency with the County's General Plan. This information and analysis must be included in a revised DEIR.

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g. Biological Resources

The DEIR identifies 12 potentially significant impacts of the project on biological resources. Impacts identified in the DEIR include the permanent loss of 946 acres of non-native grassland which is habitat to special status wildlife species including the San Joaquin Kit Fox, California Tiger Salamander and Western Pond Turtles, loss of at least 27 blue oaks on 13.5 acres, loss of 28.5 acres of jurisdictional waters and wetlands and impacts on other plant and wildlife species. Impacts are likely understated as a result of a) inadequate survey information concerning the existence of special status species both on and off-site within wetlands and drainages, b) lack of analysis of the impacts of project components, including but not limited to needed flood control improvements which will impact creek and channel habitats and c) lack of an adequate characterization of the regional biological setting (e.g. resources within other adjacent areas approved or being considered for development).

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Each of the significant impacts identified in the DEIR is purportedly reduced to less than significant based on a draft Habitat Management Plan and DEIR proposed Resource Management

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Plan, tree replacement plan, enhancement of habitat areas, creation of new vernal pools, 3:1 replacement of kit fox habitat and the like. Notwithstanding these mitigation measures, the development of a large urban community will result in significant and unavoidable losses of biological resources within the development area and as a result of the increase in human activity in the area. Regardless of the extent of protection and enhancement of existing open space and habitat areas, this loss represents an irreplaceable loss of resource values and should be identified as a significant unavoidable impact of the project.

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2. The DEIR Fails to Identify Feasible Mitigation Measures

A number of feasible mitigation measures are omitted from discussion in the DEIR. Such measures include, but are not limited to:

- a. Identification of specific limits to areas where grading can occur to eliminate the significant impacts of mass grading of hillsides and to address general plan inconsistencies that would result if the current project is approved (i.e. prohibit development and grading in areas with slopes over 26%);
- b. Identification of areas where development should not occur (e.g. areas over 26% slope, wetlands, riparian corridors, and the like);
- c. Identification of areas where development should not occur in order to protect prime agricultural lands.
- d. Specific phasing milestones for achievement of jobs/housing balance and implementation of service and facility requirements which, if not met, result in a halt to issuance of building permits until the default is corrected. (see e.g. the Dougherty Valley Settlement Agreement).
- e. Additional mitigation lands to address impacts to special status species including, but not limited to kit fox, red-legged frog,

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California tiger salamander, as well as others that would be impacted by project-related and cumulative developments.

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- f. Identification of a high school site and implementation mechanisms to address school service and facility demands.

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- g. Regional mechanisms to address the significant, cumulative impacts of the project including, but not limited to measures to address cumulative air quality (more aggressive infill policies), transportation (more aggressive infill and project design policies) and biological resource impacts (a regional habitat protection or conservation plan including fees for purchase of permanent reserves and/or creation of mitigation banks, among others.

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E. The DEIR's Alternatives Analysis is Seriously Flawed

The DEIR fails to provide a complete and comprehensible description of the alternatives to the proposed project. Most importantly, it fails to provide the information necessary to make a meaningful assessment and comparison of the available alternatives. To satisfy the requirements of CEQA, an alternatives analysis must provide enough concrete information about and analysis of feasible alternatives to permit a "meaningful evaluation, analysis, and comparison with the proposed project." CEQA Guidelines section 15126(d)(3). The California Supreme Court has explained that "[a]n EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." Laurel Heights Improvement Assn., 47 Cal.3d at 405. The court also noted that an EIR's discussion of alternatives "must be specific enough to permit informed decision making and public participation." Id. at 406.

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In this case, information on the environmental impacts associated with each alternative should be presented in the EIR in a manner that permits readers to compare each alternative to the proposed project as well as to the other alternatives easily. The CEQA Guidelines suggest, for example, that "[a] matrix displaying the major characteristics and significant

environmental effect of each alternative may be used to summarize the comparison." CEQA Guidelines section 15126(d)(3).

The EIR for this project should provide both the decision-makers and the public a full opportunity to analyze and understand the environmental repercussions of the project, and to compare them to the other possible alternatives. The DEIR fails to provide sufficient information on key issues in a manner that reveals the full implications of the various alternatives for closure. Meaningful analysis and comparison of the alternatives and the project is, therefore, not possible. See Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990) (absence within EIR of comparative data regarding water consumption under the two scenarios rendered analysis of the natural gas alternative incomplete and precluded meaningful consideration of natural gas alternative). See also San Joaquin Raptor, 27 Cal.App.4th at 737 (an EIR must explain why each alternative "either does not satisfy the goals of the proposed project, does not offer substantial environmental advantages or cannot be accomplished"). The DEIR should include an expanded discussion of the alternatives including an expanded description of each alternative, and analysis and comparative data for each alternative sufficient to support an informed comparison of the project and the alternatives to the project.

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Major concerns with the adequacy of the alternatives discussion include the following:

1. Comparison of Impacts Among Alternatives Is Not Possible

The description of alternatives does not satisfy CEQA's requirements. No table comparing impact levels for each alternative and the project is provided. The discussions of relative impacts are vague and related to the project, not to other alternatives. Moreover, there is no identification of policy consistency impacts for the alternatives. Thus, there is no basis for comparison of the alternatives to General Plan policies.

2. The DEIR's Analysis Fails to Support the Mitigated Alternative As Environmentally Superior After the No Project and No General Plan Amendment Alternatives

A critical component of an EIR's alternatives analysis is its identification of the environmentally superior alternative. CEQA Guidelines section 15126(d)(4). This identification is the end result of the EIR's presentation and comparison of the environmental impacts associated with the alternatives. In Laurel Heights, the California Supreme Court made clear that an "EIR must contain facts and analysis, not just

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the agency's bare conclusions or options." Laurel Heights, 47 Cal.3d at 404. The EIR must disclose the "analytic route the ... agency travelled from evidence to action." Id. There is no analytic route disclosed here. To the contrary, the evidence provided supports the following line-up of environmentally superior alternatives:

- No Project
- No General Plan Amendment
- Alternative Sites within infill areas (since these are contiguous to existing development and would not involve development in the Ag Core or outside the ULL)

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Moreover, the Mitigated Alternative fails to address all of the significant impacts of the project. No reductions in non-residential uses are proposed. Nor is the reduction in units sufficient to address many of the significant unavoidable project-related impacts including, but not limited to, air quality, traffic, impacts to open space and biological resources, among other impacts. Moreover, there is no information to indicate that a significantly reduced project alternative would be infeasible. A revised DEIR should provide such information.

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3. Feasible Alternatives Are Omitted From Discussion

The DEIR should include the following additional alternative:

A "land swap" alternative that would relocate proposed development to available infill sites where infrastructure exists or could readily be expanded, and where impacts to rural, habitat and agricultural resources would be avoided. Under this alternative, the DEIR should investigate the feasibility of using the Cowell Ranch as a "mitigation bank" for development of available infill sites elsewhere in the East County. The Resolution Trust Corporation ("RTC") could be a source for identifying available infill sites where proposed Cowell Ranch development could be transferred in trade for protecting the Cowell Ranch.

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III. CLOSING COMMENTS

For all of the foregoing reasons, the DEIR for the project is inadequate to satisfy the requirements of CEQA and the CEQA Guidelines. Simply denying the project would be the most

effective way to respond to the widespread deficiencies in the DEIR. No DEIR is required for a denial of the project. If the County elects to continue considering the project or any of the project alternatives, the DEIR must be thoroughly revised and recirculated for additional public comment.

We appreciate this opportunity to comment on the DEIR. Please direct all questions concerning our comments to Tom Mooers, Greenbelt Alliance, (510)-932-7776.

CONTRA COSTA

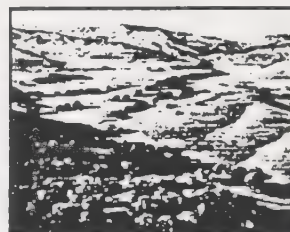
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COMMUNITY
DEVELOPMENT DEPT*Contra Costa County***Land Use or Abuse?**

An in-depth audit of Contra Costa County's land use and transportation trends — and a primer for East Bay residents who care about their future quality of life

April 9, 1996

Prepared for Greenbelt Alliance, Sierra Club (Bay Chapter), Audubon Society (Diablo Chapter) and the East Bay Community Foundation





**Contra Costa County
Land Use or
Abuse?**

Prepared with the support of:

Greenbelt Alliance
Sierra Club *Bay Chapter*
Audubon Society *Diablo Chapter*
East Bay Community Foundation

This report was commissioned in June 1995.

Prepared by Laurie Schuyler, Owen Byrd, and Jim Sayer with assistance from Anne Shelley and Mark Riesmeyer. Special thanks to Larry Orman and the GreenInfo Network for assistance with maps, and to the many activists, planners, and other public agency personnel who patiently answered many questions.

Copies of the report are available for purchase from Greenbelt Alliance, 116 New Montgomery, Suite 640, San Francisco, CA 94105. Call (415) 543-4291 for details or leave a message through greenbelt@igc.apc.org or <http://www.greenbelt.org/gba>



GREENINFO NETWORK
CONSERVATION PARTNERS FOR THE BAY AREA



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Summary

Even though much of Contra Costa's open space has been lost over the past few decades, there is still plenty worth saving. The remaining unspoiled hillsides and farmland lend character to our communities, endow them with a sense of place, and enrich the quality of life for all County residents.

- **50% of County orchards and croplands lost since 1970**

Agriculture is an important sector of the local economy that is worth protecting. Besides providing idyllic scenery and boasting some of the best soils and growing conditions in the world for food production, it generates \$80 million annually and provides 3,200 jobs. Yet the County has lost 50% of its orchards and cropland since 1970. *Alternative: Make it easier for farms to stay in business by enacting right-to-farm ordinances, as most other Bay Area counties have already done, and adopt real long-term urban growth boundaries that clearly separate farming from urban areas.*

- **More land at risk than other Bay Area counties**

The 1990 Contra Costa County General Plan opened up 110 square miles of open space to development. The County now has a greater percentage of its land threatened by suburban sprawl than any other Bay Area county. As of 1994, 23% of its open lands were at risk of suburban development. In comparison, Marin, Napa and San Mateo counties all have less than 6% of their land at comparable risk. *Alternative: Adopt a more realistic open space commitment.*

- **Five acre minimum parcel size endangers farm and ranchland**

The County's five acre minimum parcel size allows most of its open space and productive agricultural lands to be broken up into suburban ranchettes. Other Bay Area counties have protected their rural areas by enacting minimum lot sizes ranging from 60 to 160 acres. *Alternative: Follow the example of other counties and set the minimum parcel size large enough to support viable agricultural operations.*

- **More sprawl development is approved than necessary**

At least 45,000 new single family homes have been approved since 1988 — and nearly all of them since 1990, when Contra Costa adopted its so-called "65/35 Land Preservation Plan" — and another 30,000 units are in the planning process. Many of these units remain unbuilt, as the average sales rate for new homes is only 2,500 per year. Such a supply of housing approvals is excessive and is not conducive to orderly development. *Alternative: Place shorter time limits on development entitlements, revise general plans to reflect realistic growth rates given market constraints, curtail new development approvals until the market catches up with existing supply.*



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• **Staggering infrastructure costs**

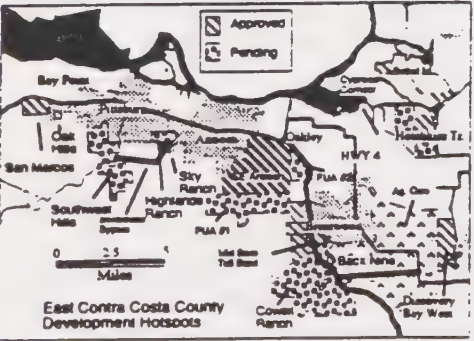
The 1990 Contra Costa County General Plan estimates that infrastructure costs to build out what is allowed under the Plan would be \$270 million for sewage expansion, \$332 million for flood control, \$375 million for water and \$3-5 billion for roads. There are also major costs associated with new schools, fire and police facilities. Only a fraction of this money is currently available.
Alternative: Plan only what can be properly served.

• **New development doesn't pay its own way**

The Contra Costa Grand Jury, the City of San Jose, the American Farmland Trust, and many jurisdictions across the U.S. have done studies showing that it costs more to provide services and infrastructure for sprawl development than what is returned to local agencies in development fees and tax revenues.
Alternative: Make residents of new developments pay their way for service and infrastructure costs instead of forcing existing residents to excessively subsidize them through increased taxes or lower levels of service.

East County

East County is a questionable place to channel massive suburban growth. The low cost of East County housing is illusory as homes are being marketed to commuters whose jobs are up to 60 miles away. At \$.28 per mile, a 120 mile round trip commute costs \$250,000



over the life of a 30 year mortgage. It also adds up to a tremendous waste of time, a drain on family life and a deterrent to community involvement. Moreover, east Highway 4 is already operating beyond design capacity and traffic demand is expected to more than double by the year 2010. It would cost billions to expand the East County road network to accommodate currently planned growth. Developers are counting on huge taxpayer

subsidies, but it is well known that a realistic source of funding does not exist. Development plans need to be scaled back to a more responsible level that does not make unrealistic assumptions about future infrastructure expansion.

• **Antioch** has leapt over the hills and is rapidly sprawling towards Brentwood. 15,000 units were approved in the Southeast Planning Area alone, with thousands more in other parts of the city — although 10,000 of these remain unbuilt as of July 1995. The City has annexed another 3,500 acres (Future Urbanization Areas #1 and #2) and is planning for up to 9,000 more homes.

• **Pittsburg** has approved over 4,000 units. The largest project is the 3,000 unit San Marcos Development on 554 acres south of Bay Point. Another 2,000 units are currently pending, including two large projects on Somersville Road near the entrance to Black Diamond Mines Park. Pittsburg has also recently announced its intentions to annex another 2,600 acres in the scenic southwest hills near Kirker Pass Road.

- **Brentwood** approved a new General Plan in 1993 calling for an expansion of its population from 7,500 people to over 73,000. More than 8,000 units have already been approved and another 1,500 are pending. Back Nine Country Club, a 992 unit development on 692 acres, is the largest project currently being planned. According to the environmental impact report, this project can only go forward if Brentwood secures a new supply of drinking water and expands its sewage treatment facility.

- The **Cowell Ranch** property southwest of Brentwood is the proposed site of a 5,200 unit new town. A philanthropic organization owns this six square mile property and hopes to gain development approvals to increase the property value before selling. It is expected that Brentwood will eventually annex this area.

- **Oakley** has become a patchwork of suburban development interspersed among working farms. Even though Oakley is expected to eventually incorporate, it has no downtown or commercial base to make it a viable city. Over 2,000 units have been approved over this 10 square mile unincorporated area in the last five years.

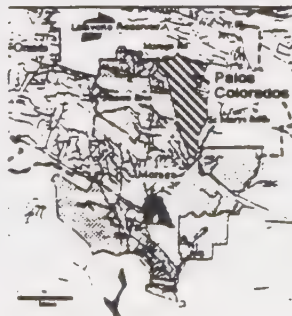
- The County has adopted a specific plan for **Bethel Island and Hotchkiss Tract** that could potentially increase their population to 15,000, despite the fact that it is an extremely dangerous location to build homes. This area is below sea level, on a 100 year flood plain, and surrounded by levees. It also has sandy soils subject to liquefaction and peat soils that can catch fire and burn underground for years. Public agencies do not have the funds to adequately maintain the levees. Two approved projects, Delta Coves and Cypress Lakes, would place the current residents at extreme risk, as their homes would be sandwiched between the new and existing levees.

- The County has approved another 2,282 units at **Discovery Bay**, despite the fact that hundreds of units in the original development remain unbuilt. Several of the existing homes have developed foundation problems as the levees they were built on have begun sinking. Homes in this subdivision are virtually uninsurable.

- The **Cypress Corridor** is an unspoiled rural area north of Cypress road, between Oakley and Hotchkiss tract, that is slated for residential and commercial development on 1,500 acres.

Central County

- **Palos Colorados** on the hillsides and ridgetops between Moraga and St. Mary's Road is one of the largest Central County developments in the planning stages. The Town of Moraga is landlocked and accessible by only three roads, which will be severely impacted by traffic from the proposed 146 homes. Moreover, the golf course would require extensive grading, which would cause air quality problems for the adjacent urban areas that could not be mitigated.



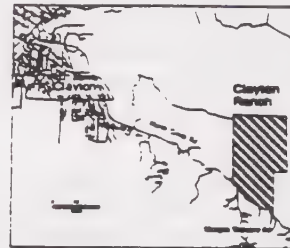
Contra Costa County Land Use or Abuse?



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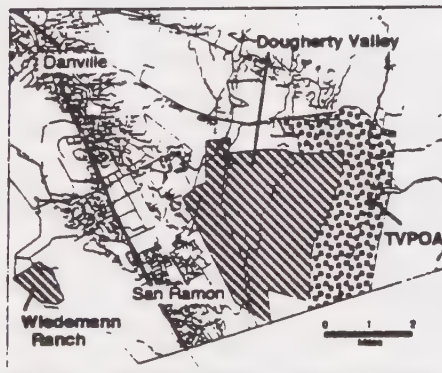
- **Gateway Valley**, near the Caldecott tunnel in Orinda, was finally approved in 1994 for 235 units on 1,000 acres.

- Developers have proposed a 115 unit leapfrog development on 1,030 acres at **Clayton Ranch** near the intersection of Marsh Canyon Road and Morgan Territory Road. An EIR has not been completed for this project.



South County

- **Dougherty Valley** developers Windemere and Shapell have finally gained approval for up to 11,000 units. As part of lawsuit settlement agreements, there is a possibility that fewer units will be built if traffic conditions are not met. East Bay Municipal Utility District (EBMUD) — after a long, protracted battle — has agreed to serve as a backup water supplier for the project.



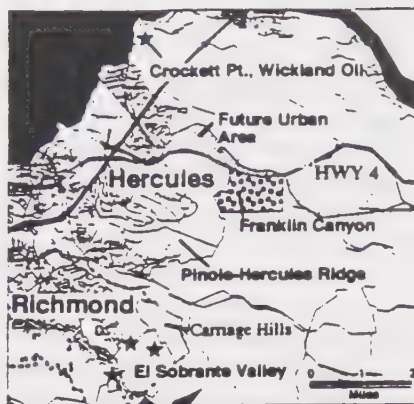
- The Environmental Impact Report (EIR) for **Tassajara Valley Property Owners Association (TVPOA)** will be released in April 1996. Combined with Dougherty Valley, this project of 6,200 units will produce a huge impact on the San Ramon Valley.

- The County has approved a 351 unit development at **Wiedemann Ranch** in the unspoiled hills west of San Ramon and south of Crow Canyon Road. As of December 1995, it still had not received necessary permits from the Army Corps of Engineers.

West County

- Richmond has been annexing land in the **El Sobrante Valley**, pushing the suburban edge further back into the hills. Currently there are 500 units in various stages of the planning process along Castro Ranch Road and San Pablo Dam Road. Nearby developments have been plagued with landslides, as many of the hillsides in this area are unstable.
- **Hercules** has annexed 630 acres in the Franklin Canyon area on which it plans to build 600 units. The area west of Franklin Canyon Golf Course has also been included in its sphere of influence. The City is awaiting progress on the Highway 4 relocation before planning for this area is initiated.

- Perhaps the most questionable example of County planning (Bishop, Rogers opposed) was the granting of approval for the Crockett Pt./Wickland Oil development which is adjacent to and downwind from the Unocal refinery that processes acutely hazardous chemicals and is known to release odorous and toxic air contaminants.



Contra Costa County Land Use or Abuse?

Transportation

It would cost billions of dollars to expand the County road network to service planned growth. Yet there are not enough funds to adequately maintain the existing roads, let alone the new ones. The minimal public transit service the County does have is now threatened with the loss of funding. It would make more sense to channel growth towards areas near existing job markets and transit corridors and put the County's transportation dollars to better use.

- **The Mid State Toll Road** — also referred to as the Highway 4 Bypass, Delta Expressway, and East County Corridor — would have a tremendous growth-inducing effect on East County. Several major developments, which are currently in the planning stages, can not be built without it. The roadway is currently undergoing environmental review. In 1997, Assemblyman Richard Rainey is expected to reintroduce his bill to have local jurisdictions form a Joint Powers Authority and float public bonds to help bail out the toll road developers. The bill was defeated in both 1995 and 1996.

- **Highway 4 East** is already operating beyond design capacity and traffic generated from new development in East County is expected to more than double the traffic demand. Funds are currently not available to widen the freeway beyond Bailey Road in Pittsburg. Widening this road will also shift more congestion downstream to Highways 680, 242, 24 and Ygnacio Valley Road in Central County.

- The relocation and widening of **Highway 4 West** could open up more of the Franklin Canyon area for development. Alignments for a new roadway are currently under study by the Contra Costa County Transportation Authority (CCCTA).

- The infrastructure needed for new growth is both underplanned and underfunded. The **transportation fee** levied on East County development to pay half the cost for specific road improvements is based on 50,000 new units being built, even though the road improvements themselves would only accommodate traffic from 27,000 of these units. Where will the rest of the funding for these new projects come from? The State is unable to pay for projects it has already approved.



Contra Costa County Land Use or Abuse?

- The growth management elements of the **Measure C** transportation sales tax are not being enforced by the CCCTA or by the County. The voters mandated in 1988 that in order for jurisdictions to receive local road improvement funds, they had to meet traffic and other service delivery standards. This was to ensure that the money would only go for relieving existing congestion and that new development would pay its own way. Brentwood and the County are still receiving these funds despite the fact that they have not met the required standards.

Water

- The previous **Contra Costa Water District Board** embarked on an ambitious expansion plan subsidized by current customers. It built the \$52 million Randall-Bold treatment plant in Oakley to serve new customers outside the district. CCWD customers are paying 70% of the cost of this plant and 63% for operations, despite the fact that they are not receiving water or other benefits from it. This amounts to a \$3.6 million subsidy each year from current ratepayers. The District also convinced voters to back the \$450 million Los Vaqueros Reservoir, a costly solution to water quality and reliability issues, despite the fact that better alternatives existed. This decision was driven in part by expectations that East County could obtain access to this facility. The District has spent millions more on water entitlements that can only be used outside the District boundaries in East County. These actions by the previous Board have forced the current Board to expand the customer base in order to decrease the enormous debt burden that these projects placed on existing ratepayers.
- **Dublin San Ramon Services District (DSRSD)** is a small water retailer that has ambitions to serve several major Tri-Valley developments. Despite the enormous costs, it is proposing a deal to transfer water from the bankrupt Berenda Mesa Water District.
- In 1994 developers raised \$180,000 to oust what they called "environmentalist" Board members from **East Bay Municipal Utilities District (EBMUD)**. The District has since agreed to serve as a backup supplier to Dougherty Valley and has resurrected the controversial American River pipeline, which has an estimated price tag of \$115 million. Assemblyman Richard Rainey is sponsoring a bill to facilitate the breakup of EBMUD using the issue of water rate "unfairness." If the San Ramon Valley secedes from EBMUD, developers hope to gain even more control over the water supply and make current ratepayers subsidize water service for future valley developments.

Sewage

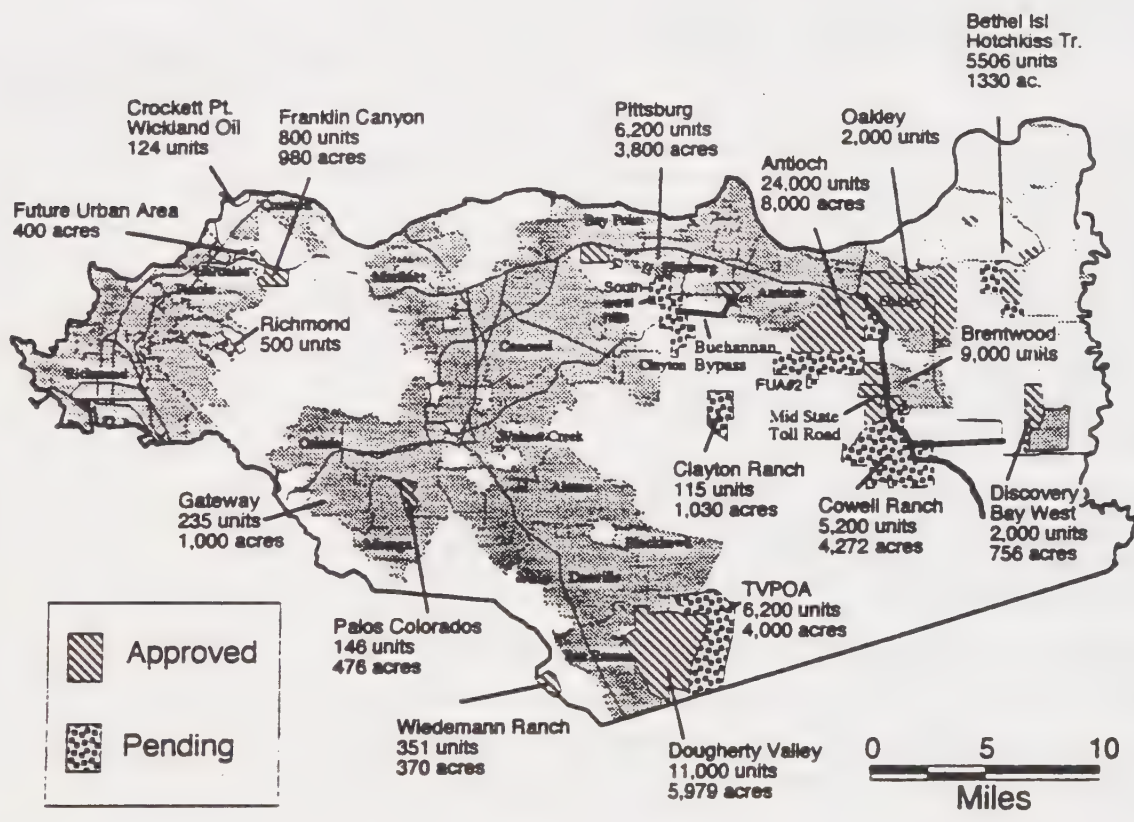
- Right now the lack of sewage disposal capacity is a major constraint to growth in East County and the Tri Valley. Several of the sanitation districts are currently undergoing studies of how to expand their capacity. DSRSD is studying a costly and unpopular proposal to recycle waste water into drinking water. Brentwood is negotiating with Oakley's Iron House Sanitary District to take its waste water. Delta Diablo is also undergoing efficiency and expansion studies.

Alternatives for a Better Future

- Growth needs to be accommodated in ways that enhance and preserve the special qualities that make Contra Costa such an attractive place to live, protect its natural resources as a regional asset, and nurture vibrant healthy cities.
- Good planning is needed to give people better housing and transportation alternatives. Moderate density residential and mixed use developments should be encouraged within convenient walking distance of downtowns, near major employment centers, shopping areas, and public transit corridors.
- A critical need in Contra Costa is to debunk negative stereotypes associated with infill and show how moderate density housing can be well designed and sensitively blended into existing communities. Pedestrian oriented neighborhoods, streets and public spaces that are integrated with people's work, shopping and entertainment activities can be desirable, safe, attractive and culturally stimulating places to live and work.
- The potential for real urban growth boundaries (UGBs) around each community should be explored along the lines now being carried out in Sonoma and Santa Clara counties. Real UGBs would help distinguish rural from urban areas and would channel more investment back into existing cities.
- Infrastructure should be at the forefront of the debate over new development rather than treating it as a mere afterthought.
- The County should follow the example of other Bay Area counties and get out of the land use business. Cities are much better equipped to provide needed services, and handle truly urban and suburban development.
- General plans throughout the County should be revised to reflect a greater commitment to open space and agricultural protection.
- The minimum parcel size for open space should be set large enough to support viable agricultural operations — with a minimum of 320 acres for grazing and 40 acres for intensive agriculture.
- Applications for massive master planned sprawl-type development should be denied as there is already an oversupply of approved housing units that have not yet been built. The County does not need a thirty year backlog of unbuilt units.
- New development should be approved at a more responsible pace that reflects the economic realities of the marketplace and the real financial, political and geographical constraints on infrastructure.



Contra Costa County Land Use or Abuse?



Introduction

When early white settlers first set eyes on what is now Contra Costa County, they were met with a stunning landscape. Mt. Diablo still dominated the skyline, but it towered above a very different environment than what we see today. There were miles of pristine Bay coastlines, lush valleys filled with streams bursting with salmon, and rolling grasslands carpeted in dazzling wildflowers and sprinkled with majestic oak trees. Vast stretches of the valley floor were covered with tule marshes teeming with wildlife. There was such an abundance of food that many Native American villages flourished here year round.¹

During the mid 1800's, settlers began to move in and quickly discovered that the soil was exceptionally fertile, the water table was easily accessible, and the climate was conducive for growing a tremendous variety of crops. Contra Costa was soon transformed into one of the most productive farming regions in the country.

Martinez became its first city, serving as a popular stopover for steamboats filled with 49ers in search of gold. Port Costa served as a bustling shipping port until a railroad bridge across the Carquinez straits cut into its business. Mining towns sprouted in the foothills near Black Diamond Mine when coal was discovered in the 1860's. Richmond and San Pablo were predominantly wheat growing areas until 1902, when Standard Oil built what was at the time the world's largest oil refinery. During WWII, the population on the County's west side grew rapidly as people were brought in to work in the shipyards.

In 1937 the Caldecott tunnel and accompanying road improvements considerably shortened the distance from Central County to Oakland and San Francisco. Visitors came in droves, fell in love with the scenic landscape, expansive orchards, sleepy towns, and sunny weather, and decided to stay.

Suburbanization, fueled by low interest GI loans after World War II, rapidly transformed Central County into a bedroom community for job centers in Oakland and San Francisco. But even as recently as the 1960s, orchards still stretched from Concord to San Ramon, picturesque towns interconnected by two lane country roads dotted Central and East County, and there was not an office building or shopping center to be seen anywhere.

Back then, a kid growing up in Walnut Creek could enjoy a bicycle ride to Danville along mile after mile of orchards, encountering only a handful of farm workers along the way. The Delta served as a wonderful playground for young people who could go clamming or fishing along its banks. The fish were plentiful and 12 ft. sturgeons and 40-50 lb. stripers were not uncommon. Kids used to bring home carp by the bucketful and catch so many splittails that they had to bury them. Catching frogs and tadpoles along the stream beds was one of the rituals of growing up.



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*30 years ago, fisherman
used to catch 40 - 50 lb.
stripers in the Delta. Now
a 2 lb. specimen is
considered a good catch.*

Much has changed over the last 30 years. The orchards have disappeared from Central County and are rapidly giving way to suburban sprawl in East County. The creeks have been mostly channelized for flood control. The clam beds are all gone and the fish population has dwindled tremendously. Now a 2 lb. striper is considered a good catch and the splittails are endangered. Even if you do catch a fish, chances are it is unsafe to eat. Many priceless experiences of childhood, taken for granted just one generation ago, are no longer a possibility for our children today.

Nowadays, typical visitors enter the County by freeway, most of which are congested for extended periods of the day. A visitor's first impression might be to admire the remaining natural ridges which serve as a scenic backdrop to a vast sea of suburban homes poured out over the lowlands, creeping up hillsides, and spilling out towards Brentwood and the Central Valley. Air pollution hangs over the interior valleys on warm summer days, and noise and congestion have become an accepted part of daily life.

The once idyllic towns have been transformed into mostly undifferentiated communities connected by a maze of freeways and mile after mile of suburban tract homes. Contra Costa County was once known for having some of the richest soils in the world, with topsoil in some areas reaching more than 30 feet deep. Now, much of the prime agricultural land is under pavement and the remaining acreage seems destined for the same fate. Many of the scenic charms that once beckoned people to come and stay are no longer evident, and those that remain are now in danger of being irretrievably lost.

While growth may seem inevitable, it does not have to come at the expense of destroying the very qualities that have made Contra Costa County an attractive and inviting place to live and to visit. Contra Costa does not have to follow the example of Los Angeles and urbanize all its remaining farmlands and open space. Instead, growth can be channeled in ways that will enhance and revitalize the County's existing communities. Citizens have a choice in the way their communities are developed and can play a significant role in charting that course. They need to be organized so that their voices can be heard above those who have an interest in perpetuating current destructive development patterns.

~ ~ ~

History of Open Space Protection Efforts

Acquisition

East Bay Regional Park District, Save Mount Diablo, the Martinez Land Trust, and numerous other public agencies have done an excellent job of protecting significant landmarks and regional treasures in Contra Costa County. As of 1992, 94,700 acres have been permanently secured.² Additionally, voters passed Measure AA in 1988, which provided East Bay agencies with \$225 million worth of bonds to acquire and maintain parkland. Though these funds are now running out, they have enabled jurisdictions to permanently protect more than 5,000 acres in the County.³

Still, while acquisition and stewardship are essential, these represent only one aspect of land conservation. This approach alone can't provide a comprehensive solution to the problem, because it would be impossible, and not necessarily desirable, to purchase every piece of property that should remain in rural uses. Acquisition has to be coupled with responsible land use planning to ensure the long term economic health of Contra Costa's communities, to prevent the further deterioration of the quality of life for County residents, and to maintain a balance between rural and urban land uses.

County General Plan Update, 1984 - 1990

One of the first efforts to proactively shape the future of Contra Costa County began in 1984. Large-scale developments were being proposed for Bethel Island, Marsh Canyon, Briones Valley, Deer Valley, Lone Tree Valley, Cowell Ranch, Discovery Bay, Veal Tract and the San Ramon Valley. East County was being transformed from a quiet farming area to a patchwork bedroom community. Much of the development was taking place in areas that lacked infrastructure, causing traffic conditions to deteriorate and draining investment away from existing cities. Development was not proceeding in an orderly fashion, but was instead hop-scotching all over the County, fragmenting the urbanized and rural areas and ruining the basic character and charm of the places it touched. The type of development that was occurring did not make economic or environmental sense and was detrimental to the long-term best interest of the entire county.

In 1984, local representatives of People for Open Space (now called Greenbelt Alliance), the Sierra Club and Audubon Society urged the County to undertake a comprehensive update of its General Plan. This planning document is supposed to serve as a blueprint upon which all land use decisions are based, yet it had not been thoroughly revised since 1963. The Board of Supervisors agreed and set up a General Plan Advisory Committee to complement the work of County staff.

A coalition of citizen groups worked together on the Committee to advocate a visionary General Plan that included permanent protection for significant resource areas, including riparian corridors, wetlands, scenic ridges and agricultural lands. They also worked to get policies adopted that would direct



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*The 1990 County General
Plan - validated by
Measure C - opened up
110 square miles for
sprawl development and
allowed the remaining
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into 5 acre ranchettes.*

growth to existing cities or contiguous lands with adequate public services, have new growth pay its own way and not depend on subsidies from current residents, and encourage the County and cities to work together cooperatively to ensure that the future quality of life is equal to or better than the present.

The revision of the General Plan would take years to complete. In the meantime, the County was still approving scores of new developments. In 1986, the citizen groups called on the County to enact a moratorium on new approvals until the new General Plan was finished. They organized a campaign and convinced a dozen cities to join with them in calling for the moratorium. At first it looked like the citizen groups would prevail, but it wasn't long before the forces in opposition became organized and pressured many of the cities to back off. Development interests also took control of the General Plan process and made sure that the final outcome would ensure the floodgates remained open for continued sprawl development. By 1990, after years of effort, it appeared that working through the official channels would be fruitless.

Measure F versus Measure C, 1990

Unable to influence the General Plan process directly, the citizen groups organized a campaign to protect the County's open space by initiative. They collected 33,000 signatures to put Measure F, "The Open Space and Wildlife Conservation Initiative" on the ballot. It called for city-centered growth, large lot zoning outside of cities to protect farmland and open space, and permanent protection for scenic ridgelines and other natural features. Meanwhile, the Board of Supervisors, in cooperation with development interests, countered by putting their own measure on the ballot to confuse the voters: Measure C, the "65/35 Land Preservation Plan."

The contest between the two measures was never on a level playing field. The County Counsel gave Measure F the unappealing official ballot name of "Land Use Initiative for Unincorporated Areas." The Yes on C/No on F campaigns raised a combined \$430,000 – more than ten times the amount raised by Measure F supporters.⁴ The local newspaper also came in solidly behind Measure C, which was not surprising as it had consistently been a cheerleader for continued sprawl development.⁵ Most voters thought they were voting for open space protection. Instead they received a new General Plan which opened up 110 square miles to development and allowed most of the remaining open space to be carved up into five acre ranchettes.

Measure C's "Urban Limit Line"

Measure C also expropriated the concept of an Urban Limit Line (ULL) from conservationists, but watered it down to render it almost meaningless. An urban growth boundary is a long-term fixed line drawn around cities that divides land to be developed from that which is to be protected as open space. The idea is to accommodate growth more compactly by encouraging investment within existing cities. But the land outside Measure C's line was not properly protected, as it could be subdivided into five acre residential parcels. Furthermore, so much land was included inside the ULL that it actually encouraged more sprawl

instead of reining it in. As of 1990 when the plan passed, 75,000 acres of open space were up for grabs, a total of 110 square miles.⁶ This was far more than necessary to meet the Association of Bay Area Governments' (ABAG) population growth projections. The capacious ULL opened up vast areas for more sprawl development, while doing nothing to encourage investment in existing cities.

According to Measure C, only 35% of the County was to be urbanized, yet the ULL actually includes 46% of the land. This was rationalized on the basis that golf courses and unbuildable portions of each property can be re-dedicated as open space to meet the 65% requirement. Theoretically, the whole County can be urbanized under this plan if developers only use 35% of each parcel and leave 65% as "open space." Moreover, the line itself is actually a moving target that can be changed by a 4-1 vote of the Supervisors. Adjustments to the Urban Limit Line have already been made to accomodate development at both Dougherty Valley and Discovery Bay. Measure C and the subsequent new General Plan simply borrowed environmentally correct rhetoric to gloss over a business-as-usual approach.

Agricultural Core

One of the few bright spots associated with the new General Plan was the designation of an agricultural core. An area of 11,644 acres of prime farmland⁷ south of Brentwood was zoned at a 40 acre minimum parcel size to preserve farms and prevent their fragmentation into unproductive ranchettes. This policy was the direct result of efforts by East County farmers, who were concerned about the rapid conversion of prime farmland to housing tracts. They had originally proposed the formation of a 17,000 acre "agricultural park" to permanently preserve the rich farmlands as a cultural, educational and economic resource for the County. The basic idea was to set up a land trust to buy up development rights to prevent further suburban encroachment. This proposal ran into opposition from all sides. Developers and some farmers wanted the windfall profits that awaited them if the urban edge caught up with their land. Attempts to integrate the agricultural park proposal into the General Plan failed, but spurred the county to compromise and include special zoning for a much reduced Agricultural Core. There are still no assurances that this area will be permanently protected, as the Board of Supervisors can take land out of the Ag. Core with a 4 - 1 vote.

Tri-Valley Transportation Plan

The Tri-Valley is a sub-region that spans the Livermore, Amador and San Ramon Valleys. Planning decisions made on either side of the County line have major impacts on the neighboring County. The current population of the Tri-Valley is about 160,000; if all the currently proposed and approved developments are built, the population is likely to rise to over 400,000.

By 1991 it was clear to community leaders that the lack of infrastructure was becoming a major issue in the Tri-Valley. The Tri-Valley Transportation Council (TVTC) was subsequently formed to address the growing traffic concerns. With the assistance of a consulting firm, a detailed traffic model of the region was



Contra Costa County Land Use or Abuse?

The urban limit line includes 46% of the land, even though only 35% of the County was to be urbanized under Measure C.



Contra Costa County Land Use or Abuse?

At least 45,000 units have been approved county-wide since 1988 and another 30,000 are currently working their way through the planning process.

constructed. The model made it clear that there were severe financial and physical limitations to road expansions. After running the transportation model using many different scenarios, the Council came to the conclusion that without addressing the underlying land use issues and financial constraints, the region could be headed to serious congestion on all of its freeways and many arterial roads within a few years. They also realized that transportation could not be addressed in isolation from land use patterns. Although the Tri-Valley Transportation Plan was generally considered to be a long fruitless effort, it did bring political leaders to understand the seriousness of the transportation problem facing the region and helped them realize that land use, transportation and sustainable development have to be addressed together if any meaningful solution is to be found.

In 1995 Tri-Valley jurisdictions agreed to tackle the issue again and obtained a grant from ABAG. The result was a document called the Tri-Valley Sub-regional Planning Strategy. The final report included 107 recommendations to be acted on voluntarily by each jurisdiction. These recommendations included amending general plans to establish urban growth boundaries, directing growth to where infrastructure capacity exists, encouraging infill, reusing vacant and under used land, establishing transit friendly development, and establishing sites for multifamily housing.

The recommendations of the Tri-Valley Subregional Planning Strategy are a big step forward for the Tri-Valley, although the jury is still out on whether jurisdictions will take the next step towards a more sensible and sustainable future by adopting the policies set forth.

Overview

Over the last eight years — and even since the passage of the "65/35 Land Preservation Plan" in 1990 — sprawl has continued unabated in Contra Costa County. At least 45,000 units have been approved countywide since 1988 and another 30,000 are currently working their way through the planning process. The County has given its seal of approval to huge new developments at Discovery Bay (2,300 units, 908 acres), Bethel Island (1,964 units, 1,180 acres), and in Dougherty Valley (up to 11,000 units, 6,000 acres). It is currently reviewing plans for 6,200 more units in the Tassajara Valley (TVPOA) and 5,200-6,000 units on Cowell Foundation property south of Brentwood. Meanwhile, the City of Brentwood has adopted a new General Plan calling for growth from 7,500 to over 70,000 residents. Antioch has given final approvals to 12,000 units since 1988 and has just annexed 3,500 more acres on which it plans up to 9,000 more tract homes. Many of the homes approved have not been built because there is no market for them. Huge numbers of homes have been approved each year despite the fact that on average only 2,500 new ones are being sold on an annual basis.

~ ~ ~

Costs of Sprawl

Infrastructure Costs

Development approvals are being granted despite a lack of infrastructure and despite the enormous social, economic, and environmental costs of sprawl. The 1990 General Plan estimates that supplying the infrastructure necessary to build out what is allowed under the Plan would cost \$270 million for sewage expansion, \$332 million for flood control, \$375 million for water and \$3 - \$5 billion for roads.⁸ New schools, fire and police facilities are also extremely costly.

There is a huge shortfall in the funding that would be required for this infrastructure. Moreover, there is practically no possibility of raising these funds except through tax increases on existing residents. Current residents would also pay for the expanded infrastructure indirectly through a reduction in the level of services they are now receiving.

New Development Does Not Pay Its Own Way

Many recent studies have shown that new low density sprawl costs more to service in the long run than what it returns in local taxes and development fees. The City of Fresno, American Framland Trust, the State of New Jersey and others have conducted studies which concluded that building more compactly produces substantial savings on land, infrastructure and operating services. In 1994 the City of San Jose did a study to determine the financial impact on the City if it continued expanding or if instead it focused on infill type development. It came to the conclusion that sprawling outward into adjacent rural valleys would leave the city with annual deficits of \$4.5 million, while building new homes within the current City boundaries would produce a net gain of \$2 million to San Jose's treasury.¹⁰

The Contra Costa Grand Jury came to similar conclusions. In 1990 it issued a report recommending that the County stop permitting development in unincorporated areas and get out of the business of providing city services. The following are excerpts from the report:

- "Both city and county governments actively foster new development in order to increase tax revenue, with apparent little attention to possible adverse long range consequences of emphasizing short term gains."
- "Expectations of substantial revenue help from new housing developments may be illusory, as experienced observers believe in many cases the added costs of new service demands will exceed tax revenue."
- "The county government is inherently unable to provide city services as effectively and economically as the cities."
- "The Board of Supervisors should establish a policy that housing developments in the unincorporated areas of the County not be permitted unless the development has arranged to be annexed by an incorporated city, incorporates itself, or becomes a self sufficient, urban service area."¹¹



Contra Costa County Land Use or Abuse?

In 1990 the Grand Jury issued a report recommending that the County stop permitting development in unincorporated areas and get out of the business of providing city services.



Contra Costa County Land Use or Abuse?

*Antioch has an attractive
downtown that could
become another Sausalito,
but with more character.*

Social and Economic Consequences of Sprawl

Sprawl also has other serious social and economic consequences. Several studies have indicated that channeling investment to the suburban fringe, away from older neighborhoods, hastens their decline. The problems faced by these neglected communities are exacerbated by the fact that they are unable to lure investment, which is instead attracted to the growing suburban edge. The cost of dealing with the social problems of these abandoned urban regions will be enormous. Moreover, the crime problem is not just isolated to these inner city areas, but is rapidly spreading throughout all the communities.

Many heavy industries along the Delta have felt the added pressure of suburban encroachment. Continental Can, Hunts, and DelMonte packed up and left, as they were overrun by the surrounding bedroom communities. Several others that were once major employers have either left or scaled down operations — decisions that can be partly attributed to the increasing challenges of operating so close to suburban neighbors.

Lost Infill Opportunities

Infill development can be sensitively designed to blend into the existing community in ways that enhance the quality of life for current residents. Pedestrian oriented neighborhoods, streets, and public spaces that are integrated with people's work, shopping and entertainment activities can be desirable, safe, attractive, and culturally stimulating places to live and work. Infill development would also offer people a wider variety of housing choices, save taxpayers the enormous costs of new infrastructure, and create a more inclusive atmosphere in which all feel welcome in Contra Costa's communities regardless of age, income or ethnic heritage.

Many of the County's cities have a tremendous untapped potential for good infill development. Antioch has an attractive downtown that could become another Sausalito, but with more character. Downtown Concord has lots of potential to become a thriving center of community activity. The City of El Cerrito deserves much praise for its efforts to encourage well-designed infill developments around its BART stations. Several other BART stations are also excellent candidates for mixed use developments that can help revitalize the surrounding communities. With appropriate investments, Richmond and Bay Point could experience a renaissance. Yet as long as we continue sprawling outward, infill opportunities will be ignored, and the needed investment will instead be diverted to the urban fringes.

Loss of Farmland

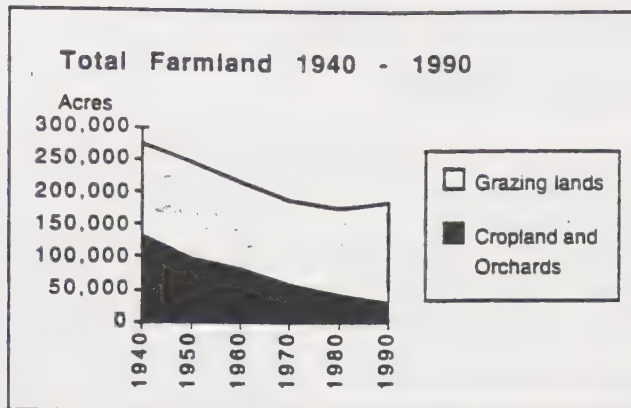
Another consequence of unchecked sprawl is dramatic losses in productive farmland. Besides providing idyllic scenery, the valley floors boast some of the best agricultural soils and growing conditions in the world. In East County, over 100 different crops can be grown. Narsai David and other noted food

connoisseurs claim that East County produces the world's sweetest bing cherries. Yet over the last 25 years, more than 50% of the orchards and croplands have been lost and much of what is left is threatened by suburbanization.

Despite these trends, the County still has a vibrant agricultural industry that is worth saving. Agriculture is still an \$80 million a year industry that employs over 3,200 County residents.¹² It continues to be an important sector of the County's economy.

Large Lot Zoning for Open Space

One of the most important tools for protecting the long-term viability of working farms and ranches is large lot zoning. Once non-farmers begin moving into an area of working ranches and farms, they make it difficult for the remaining farmers and ranchers to continue their operations. Farmers have to cope with complaints about loud pumps at night, smelly fertilizers, and flies, with the inability to spray pesticides when wind is blowing toward homes, with neighbors stealing produce, and with the difficulty of moving slow farm equipment between plots on roads filled with impatient commuters. As farmers start to quit, ancillary farm support businesses can't make a go of it and fold up. This further inconveniences the farmers that are left, as they need to go further to get services. Contra Costa's five acre minimum parcel size encourages the ranchetting of open space which is a serious threat to the County's working ranches and farms.



Contra Costa County Land Use or Abuse?

*During the last 25 years,
50% of Contra Costa
County's cropland and
orchards have been lost.*



Contra Costa County Land Use or Abuse?

Contra Costa has a higher percentage of land at risk to sprawl development than any other Bay Area County.

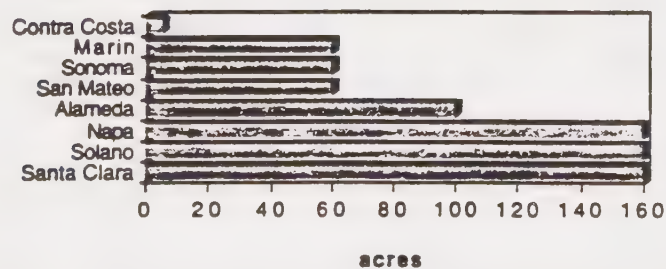
Comparisons With Other Bay Area Counties

Other counties have done a much better job of protecting their agricultural and other open space resources. Contra Costa ranks last among eight Bay Area Counties in both its open space zoning policies and in the overall percentage of land at risk. It is also one of two Bay Area counties that have not enacted right-to-farm ordinances to make it easier for farms to stay in business. More than 23% of Contra Costa County's land is currently at high or medium risk of being developed. By contrast Napa County has only 4.1% at risk, San Mateo has 4.9% at risk, and Marin County has preserved nearly 50% of its land as farmland, parks or watersheds.¹³

% Land area at risk	
Contra Costa	23.3
Solano	19.8
Santa Clara	13.7
Alameda	12.9
Sonoma	12.5
Marin	5.6
San Mateo	4.9
Napa	4.1
San Francisco	1
Regional Avg.	12.7%

Other counties have also instituted large lot-zoning, ranging from 40 to 160 acre minimum parcel sizes, and other policies to protect the viability of working ranches and farms. Neighboring Alameda County has a 100 acre minimum parcel size for its farms and ranchlands (and may increase the parcel size to 160-320 acres). Solano County recently extended its Measure A for another 10 years, which ensures that growth will be channeled to existing cities instead of sprawling all over the County. Sonoma County has instituted a policy of community separators and many of its cities are moving towards adopting fixed, 20 year urban growth boundaries. Cities in Santa Clara County are also working on urban growth boundary policies and the County's new General Plan expressly discourages urban-scale development in unincorporated areas.

Open Space Zoning Minimum Parcel Size



East County

Overview

East County is currently the leading hot spot for development in the Bay Area. If the prevailing growth patterns continue, East County's population will explode from 160,000 to nearly 250,000 by the year 2010, which will be equivalent to adding another city the size of Concord. Looking at the broader picture, is East County really the best place to accommodate such a large population center? The Brentwood region has some of the richest soils and best growing conditions in the world for food production. The County would be losing this tremendous resource by allowing it to be covered over with tract homes, roads and golf courses.

Additionally, what will be the effect on the health of the Delta having such a large population perched on its shores? The proliferation of communities sporting backyard marinas will increase boating traffic and consequently the dumping of raw sewage into its waters. What will be the consequences of paving over so much land that the Delta no longer benefits from the cleansing process of the rain water percolating naturally through soil? And, what of all the oil-laden road runoff washing down the storm drains or the additional sewage effluent that will eventually find its way into this fragile ecosystem?

The new homes being built in East County are marketed primarily to commuters, even though jobs are often up to 60 miles away, separated from East County by already congested highways. The low cost of homes is more than offset by the high commuting costs. At \$.28 per mile, a 120 mile round trip commute costs \$250,000 over the life of a 30 year mortgage. It also adds up to a tremendous waste of time, a drain on family life and a deterrent to community involvement. Building roads in the East County to accommodate all these new commuters will cost billions of dollars, and this doesn't even take into account the severe traffic impacts downstream in Central County.¹⁴

Highway 4 is already operating beyond design capacity, and the funds do not exist to widen it east of Bailey Road in Pittsburg. Still, traffic projections show that building out East County will more than double the traffic demand on Highway 4 by the year 2010.¹⁵ East County also lacks the sewage disposal capacity and a reliable water supply for anticipated growth. Despite this shortfall, the cities of Antioch, Pittsburg, Brentwood, and the County continue to approve new projects and have become highly dependent on development fees to balance their budgets.

Developers and local jurisdictions now advocate the building of business parks to bring jobs to East County. Instead of creating new jobs, these are more likely to take jobs away from older Bay Area communities.



Contra Costa County Land Use or Abuse?

At \$.28 per mile a 120 mile round trip car commute would cost \$250,000 over the life of a 30 year mortgage.



Contra Costa County Land Use or Abuse?

Even though 10,000 approved units remain unbuilt, Antioch has annexed another 3,500 acres and has ambitions to approve another 9,000 units.

Antioch

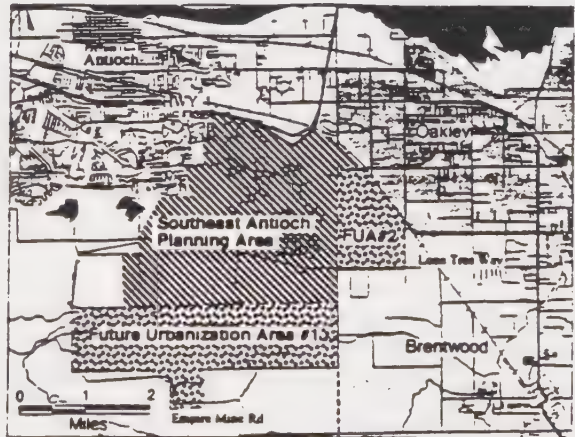
This city is situated in a unique natural setting which gives it much of its character. The San Joaquin River provides the boundary to the north. To the south, Antioch is framed by rolling foothills that stretch up towards Mount Diablo. The rich soils that underlie much of the flatlands between the hills and the Delta were once one of the best wheat growing areas in the region. Since the 1970's, Antioch has been growing in leaps and bounds, transforming itself from an industrial based economy to a bedroom community that will soon surpass Concord as the largest city in Contra Costa County, with a projected population of over 110,000.¹⁶

In 1988, a new General Plan was adopted by the pro-development City Council that called for nearly 24,000 new units of housing. Since then, Antioch has leaped over the hills and is rapidly sprawling towards Brentwood. The city has developed an insatiable appetite for growth to pay off the massive debts it has incurred to expand its infrastructure. Last year it collected almost \$1 million in building permits alone. As of 1994 it has accumulated more than \$180 million in direct and overlapping debt and another \$60 million worth of revenue bonds.¹⁷

15,000 units have been approved in the Southeast Planning Area, and thousands more in other parts of the city, of which 10,000 have not been built by July 1995.¹⁸ Even so, Antioch has just annexed another 3,500 acres, and is currently working on plans to build up to 9,000 more units. The once pastoral hills south of town have become a beehive of activity with bulldozers scouring the hillsides to make way for housing tracts that are sprouting throughout the Lone Tree area.

Southeast Antioch Planning Area: In the rolling hills along Lone Tree Way and Hillcrest

Boulevard, reaching from the edge of Black Diamond Mines Regional Park almost to the border of Brentwood is the site of an enormous residential development. Yet it has maintained a fairly low profile, due in part to the fact that the development was approved over the last seven years as 40 separate subdivisions, most of which were less than 1,000 units apiece. Taken together, the projects cover a vast territory of over 7 square miles. Over 15,000 units have already been approved, but 8,000 of these have not been built as of July 1995.¹⁹ Developers are having a hard time unloading these units as they are built, due to steep Mello-Roos taxes and other assessments for city services.²⁰



Future Urbanization Areas #1 and #2: Despite the backlog of units approved but unbuilt, planning is underway for the next phase of sprawl growth. The specific plan for Future Urbanization Area #2 will be completed in early 1996. The planning area extends from the edge of the current Southeast Antioch Planning Area, east to the edge of Brentwood at Neroly and Empire Roads. The western two thirds of the 800 acre property is hilly, with slopes generally exceeding 25%. This area is slated for 1,300 homes, which will require substantial grading. The remaining flat portion, mostly Class I and II prime farmlands, is envisioned for future business parks. Though planning for future development is going forward, the project cannot proceed without the controversial Delta Expressway/Mid State Toll Road, as access roads into the area are currently limited.²¹

Future Urbanization Area #1 is on a slightly longer time line. It extends from the edge of the South East Antioch Planning Area southward to where Empire Mine Road turns east in Horse Valley, and runs from Black Diamond Mines Regional Park all the way to Brentwood. Currently, plans are being made for up to 6,000 homes on 2,700 acres. This area also suffers from limited access, a lack of infrastructure, and dependency on the proposed Delta Expressway/Mid State Toll Road.

Brentwood

The town is situated on some of the best agricultural soils in the world. Yet this town of 7,500 residents has aspirations to grow into a sprawling suburban community that could potentially cover over 25 square miles and reach a population in excess of 100,000.

Despite the already overcrowded schools, congested roads, and lack of adequate drinking water supplies and sewage treatment capacity, the pro-growth majority on the City Council adopted a General Plan in 1993 that called for an expansion from its 1990 population of 7,500 to 73,000 people. The Council has been aggressively annexing adjacent land and approving developments. In 1994 it was ranked as the third fastest growing city in California with a 13% growth rate.²² Currently, it covers 5 square miles and has plans to grow to 20 square miles. More than 8,000 units have already been approved on over 3,200 acres since 1990, and another 1,500 are currently working their way through the planning process.²³ Yet new home sales are only absorbing an average of 100 units a year, and there is a growing inventory of unsold units. So far, only 1,000 units have been built and 350 more are currently under construction. Brentwood is also expected to annex the Cowell Foundation's New Town south of the City (see page 23).

Back Nine, Brentwood Country Club: This proposed 692 acre development is one of the largest projects underway. 992 units and part of a golf course are currently in the planning stages. The development has been packaged as a retirement community, to avoid paying mitigation fees for schools and reduce those required for traffic. Still, its Environmental Impact Report (EIR) shows significant traffic impacts. Some of the mitigations listed for the project include



Contra Costa County Land Use or Abuse?

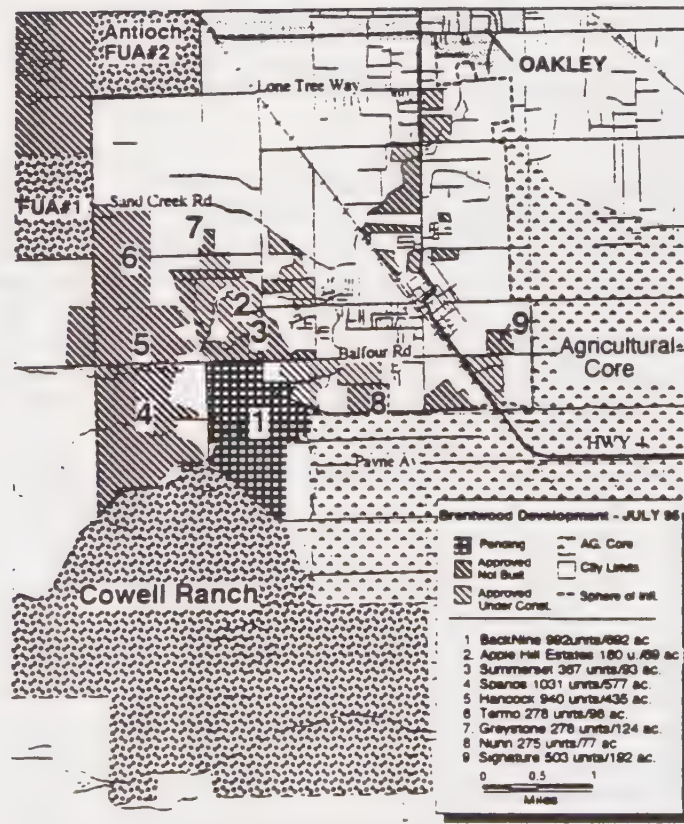
The City of Brentwood has aspirations to grow into a sprawling suburban community that could potentially cover 25 square miles and reach a population in excess of 100,000.



Contra Costa County Land Use or Abuse?

financial contributions to widen Vasco Road, Byron Highway and Marsh Creek Road to 4 lanes if these projects go forward, which is highly unlikely as they traverse extremely sensitive areas and lack adequate funding. The Back Nine will contribute towards pushing area roads beyond Measure C mandated performance standards without demonstrating proper mitigation, in clear violation of the Measure C ordinance (see page 31). Moreover, as of July '95 the project has no identified source of drinking water. With the buildout of units already approved, Brentwood's municipal water supply and sewer system will also be stretched to their maximum capacity. According to the Back Nine EIR, the development cannot go forward without an expensive sewer facility expansion and a new source of city water.²⁴

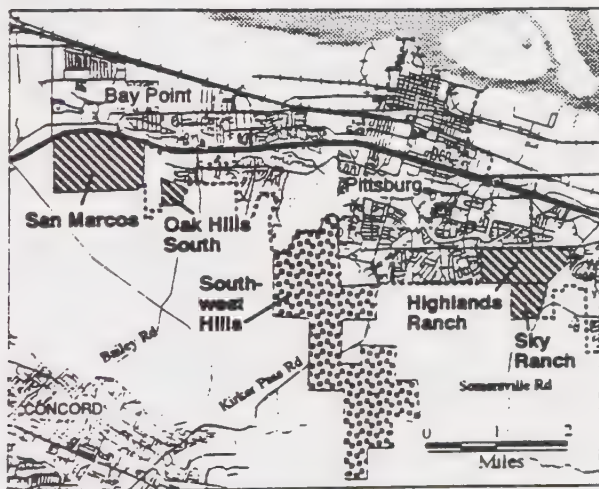
Blackhawk/Apple Hill Estates/Summerset: This 300 acre project is sited just north of the proposed Back Nine Country Club development. The concept of the original Apple Hill Estates, a joint project between Blackhawk Development and developer Ron Nunn, was for expensive mansion-style homes in a gated community. These haven't been selling very well and 54 units of the original 180 unit subdivision remain unbuilt. Across the street, Blackhawk's Summerset gated retirement community of 367 lots is only 25% constructed. However, another installment has been approved for 935 more units on 483 acres.²⁵ This development backs up to the corridor of the proposed Delta Expressway/Mid State Toll Road.



Pittsburg

In 1992 Pittsburg annexed lands on the South side of Highway 4 across the freeway from the unincorporated area of Bay Point. Because of this annexation, it is unlikely that Bay Point, parts of which are economically depressed, will ever be able to sustain itself as a city in its own right, as this area would have been an important resource for expanding its economic base.

Over the last five years, Pittsburg has approved over 4,000 units and has another 1,200 currently pending. The largest project in the works is the 3,000 unit San Marcos Development on 554 acres, which covers a large part of the newly annexed area. It is contingent on the developers completing an extension of Avila Road, which will create another gateway into the Concord area. Nearby is the 500 unit Oak Hills South Project on 211 acres. Near the entrance to Black Diamond Mines Regional Park on Somersville Road, there are two more large projects that are currently pending. Highlands Ranch includes over 900 units on 134 acres, and Sky Ranch is 283 units on 160 acres.²⁶ The city is now proposing another annexation of 2,600 acres in the southwest hills along Kirker Pass Road. It is working on a specific plan to build up to 800 homes on this site.



Unincorporated Areas

Cowell Foundation New Town: A philanthropic organization owns this six square mile property, on which it hopes to gain approval for 5,200 units, in order to increase the value of its land. This property sits on some of the most scenic land in the County, where Marsh Creek Road breaks out of the hills towards Brentwood. Part of the property is outside the County's Urban Limit Line and some of it is in the Agricultural Core. The planned development includes a golf course and might also make use of Marsh Creek Reservoir as a recreational site, except the waters are contaminated from an abandoned mercury mine upstream. The area currently has no infrastructure and buildout would cause huge traffic impacts on Marsh Creek Road, Vasco Road and Highway 4. Money from the Cowell Foundation is flowing into Contra Costa County to help pave the way for project approval. The foundation has donated over \$2 million dollars to the Brentwood Union School District and \$50,000 to the Brentwood Library.



Contra Costa County Land Use or Abuse?



Contra Costa County Land Use or Abuse?

*Levee failure on Bethel
Island could imperil lives.
Yet the County has
approved a specific plan
allowing up to 7,500 units in
this region.*

Oakley: This is an unincorporated area north of Brentwood and east of Antioch consisting of over 10 square miles of mostly prime agricultural land. Though the area is expected to eventually incorporate, there is no central district to give it a sense of community identity, and no downtown or commercial base to make it a viable city. Instead of radiating out from the center in an orderly fashion, housing tracts are springing up randomly from one end to the other. Driving through the area, one sees a patchwork of suburban developments interspersed with working farms. The County has approved over 2,000 units in Oakley over the last 5 years, and the local farms continue to disappear block by block. The Contra Costa County General Plan calls for an increase in population from 12,000 residents currently to 50,000 by the year 2005.

Bethel Island: Located in the Delta at the northeastern corner of the county, Bethel Island is one of many islands that was drained in the 1800's to create agricultural land. It encompasses 6,000 acres, of which 3,500 acres are actually on the adjoining Hotchkiss Tract. It is predominantly used for agricultural and recreational purposes and is currently home to 2,000 people.

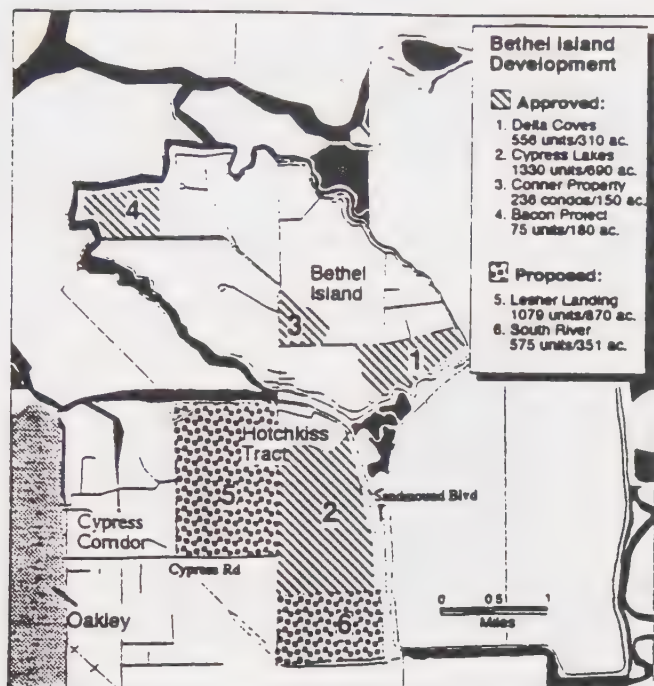
Of all the places to put residential development in Contra Costa, Bethel Island is probably the most ill-suited. The commute is over 60 miles each way to San Francisco or San Jose along already congested corridors. It is on a 100 year flood plain. The island is surrounded by levees, and subsidence has caused much of it to sink below sea level. Currently the island floor varies between sea level and minus 10 feet.

The soil is mainly peat, an incompletely decomposed material which can catch fire and burn underground for years. There is also an abundance of sandy soil that is subject to liquefaction. During an earthquake, wet sandy soil behaves as a liquid, similar to quicksand. This makes it an extremely hazardous material to build on. Yet many of the levees are not only erected on it, they are also made up of this material as well. An earthquake could trigger levee failure in several places, causing severe flooding that would imperil human lives.

Moreover, the types of developments being proposed would intensify the severity of flooding on the rest of the island. Because most of the new developments are encircled by their own levees, flood waters would be channeled into a narrower zone, causing a greater flood risk for existing residents. Levees on other Delta islands have failed on 18 occasions since 1980.²⁷

The State Department of Water Resources has estimated that it would cost \$39 million to rehabilitate the levees on Bethel Island and \$8 million on Hotchkiss Tract. These expenditures would only bring them up to a minimum safety level for adequate flood protection for existing land uses.²⁸ That is at a cost of over \$11,000 per acre on Bethel Island and \$2,500 on Hotchkiss Tract. Funds are not currently available to do all the work.

In 1991 the County adopted a specific plan for Bethel Island calling for up to 7,500 units, bringing the total population to more than 15,000 people. Environmental groups initially won a lawsuit over the inadequacy of the Environmental Impact Report (EIR). But the developers made several changes to the EIR and resubmitted it. The plan was subsequently approved in 1993.



Contra Costa County Land Use or Abuse?

Delta Coves: This project is a "Discovery Bay" type community of 556 homes, built with backyard docks on waterways that connect to the Delta. Local residents are extremely concerned over the increased flood risk this project will cause to their homes, which would be sandwiched between the new and existing levees.

An Environmental Impact Report (EIR) was approved in 1974, though the project was never built. Eight years later in 1982, the project was resurrected by the developers, but the County refused to rubber stamp it. Instead, they determined that a more focused EIR would be necessary, as much of the information from the old EIR was no longer valid. Since the original EIR was approved in 1974, there had been advances in the understanding of soil characteristics and ecology which were pertinent to this type of project, and the surrounding area had experienced dramatic changes. The developer sued the County and won \$1.5 million in damages in federal court. Moreover, the judge declared the project approved and forbade the County from intervening to prevent the developers from securing necessary Army Corps of Engineers permits to breach the existing levee. The developers are still waiting for an Army Corps of Engineers permit before they can proceed with the project. A decision on the permit is expected soon.

Cypress Lakes: This development of 1,330 units covering one square mile of Hotchkiss Tract was approved by the Board of Supervisors in 1993. The project would be built up on levees surrounding man-made lakes and a golf course. It would cause an extreme flood risk to existing residents along Sand Mound Blvd., whose homes would be squeezed between the project levees and the existing levee. The project developers have recently filed for bankruptcy.

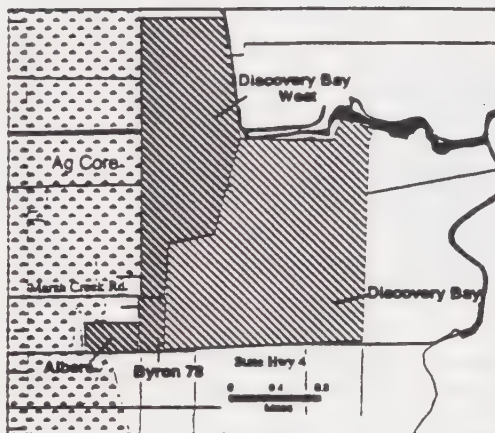


Contra Costa County Land Use or Abuse?

The County has approved 2,000 more units at Discovery Bay despite the fact that the property is on a 100 year floodplain.

Cypress Corridor: The County has designated this unspoiled rural area north of Cypress Road, between Marsh Creek and Jersey Island Road, for mixed commercial and suburban developments. The planning area encompasses 1,539 acres.

Discovery Bay: An unincorporated area located at the eastern edge of the County, this development is built on levees with individual backyard docks on man-made channels leading to Old River. The area is isolated from other suburban areas and has almost no job or commercial base. Many of the residents are commuters who often brave 4-5 hour, 130 mile round trip commutes each day to reach job centers in San Francisco and San Jose.



Of the original 3,600 units that were approved for the site, hundreds have not been built. Yet, the County has just approved 2,000 additional units at Discovery Bay West, converted 74 acres from Ag. Core land to residential for 282 units nearby, and rezoned another 78 acres for commercial uses. This is despite the fact that the property is on a 100 year flood plain, and is dependent on ground water that exceeds standards for iron and manganese. Several homes in the original development have developed problems with their foundations as the levees they were built on have begun sinking. Homes in this development are virtually uninsurable.²⁹

South County

Up until the mid 1970's, South County was a rural agricultural area nestled between scenic hillsides. The siting of Bishop Ranch Business Park and the relocation of large firms to this area have dramatically altered the scenery. Fueled by a jobs/housing imbalance, the valley has experienced a phenomenal amount of growth. Growth in the surrounding Tri-Valley area has also had a substantial impact on this region.

Dougherty Valley: Developers have approval to build 11,000 units in this unincorporated rural valley east of San Ramon. The project is the largest single development approved in County history and has been extremely controversial since it was first proposed. It was approved in December 1992 despite the fact that there was no identified water supplier. The East Bay Municipal Utilities District (EBMUD), local cities, and environmental groups sued the County over its project approval based on water, traffic and other infrastructure and

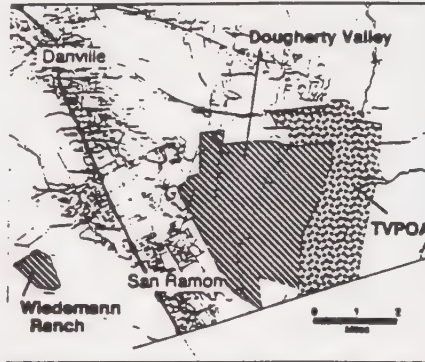
ERRATUM (p. 26): In the description of Discovery Bay in paragraph two:
Discovery Bay's man-made channels actually empty into Indian River, which is
an offshoot of Old River.

environmental concerns. As part of the settlement agreement with the cities, if developers can't demonstrate that traffic standards are being met at key intersections, the total number of units could be reduced to 8,500.

The water issue that had been a major stumbling block for the developers was resolved recently as the new pro-development EBMUD water board agreed to serve as a back-up water supplier beginning 2002 should the preferred supplier, DSRSD, be unable to deliver the necessary water. Conditions imposed by EBMUD include limiting new connections to a rate of 600 per year. Construction on the 1,200 unit Gale Ranch portion has already begun, as it is within the existing EBMUD service area.

Tassajara Valley Property Owners Association (TVPOA):

The Tassajara Valley, immediately east of Dougherty Valley, is the site of another major planned development. Now that water issues are beginning to be resolved, it is expected that the draft EIR will be released in April 1996. The proposed project envisions 6,200 units on 2,400 acres. The costs to provide infrastructure to this area will be tremendous. Combined with Dougherty Valley, this development would produce a huge cumulative impact on the surrounding area.



Wiedemann Ranch: This ranch is situated in the unspoiled hills south of Crow Canyon Road and west of the City of San Ramon and provides a scenic backdrop for the city. The County has approved 351 units for this 370 acre site, which will require considerable grading. Still, the developer has yet to receive required permits from the Army Corps of Engineers, as there are several perennial streams running through the property and substantial wetland acreage that will be significantly impacted by the development.

Approvals have also been granted to 800 other new homes in the South County area which have not yet been built.



**Contra Costa County
Land Use or
Abuse?**

Combined with Dougherty Valley, TVPOA would produce a huge cumulative impact on the surrounding area.



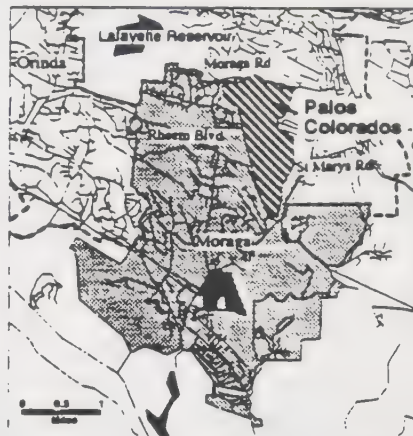
Contra Costa County Land Use or Abuse?

Central County

Development in Central County has quieted down as towns are approaching build-out.

Moraga

This landlocked city has one of the largest developments still in the planning stages. Palos Colorados is a proposed 146 unit development with a golf course on 476 acres. The site is on hillsides and ridgetops between Moraga and St. Mary's Road. The project would cause severe traffic impacts on the three access roads leading to Moraga. Moreover, the golf course would require extensive grading (1.4 million cubic yards) which will increase the level of particulates in the air and lower the air quality for surrounding urban areas. The area surrounding St. Mary's College is also listed in Moraga's 1990 General Plan as a study area which could potentially be developed in the future.



Concord

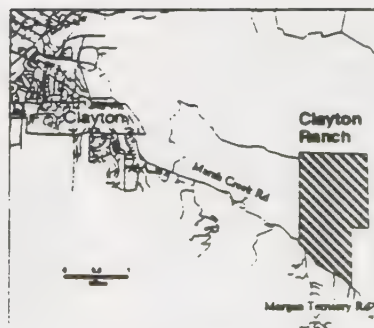
The Summit, a mixed development of 246 houses and 17 acres of commercial development, has been proposed for 85 acres south of Ygnacio Valley Road and west of the Cal State Campus. Crystal Ranch, an approved 451 unit development east of Cal State has not been built yet. A General Plan amendment increasing its size was referended by voters in 1990, though a scaled-down version was approved soon thereafter.

Walnut Creek

Even though Walnut Creek is no longer expanding, the County is continuing to approve new units on its fringe.

Clayton

Clayton has just adopted a new specific plan for the Marsh Creek Corridor that includes only 305 more units, mostly contiguous to currently developed areas. The 1,400 unit Oakhurst development, approved in 1987, still has another 500 units to go before it is built out. The County, on the other hand, is currently considering a 115 unit leapfrog development on 1030 acres at Clayton Ranch, near the intersection of Marsh Creek Road and Morgan Territory Road. An EIR has not been completed for this project.



Pleasant Hill

As of July 1995, Pleasant Hill had 190 units pending. The largest is a 104 unit project on 50 acres at the northeast corner of Grayson and Reliez Valley Roads.

Orinda

The Gateway Valley project that had been bitterly fought for years was finally approved in 1994 in a scaled-down version of 235 units and a golf course on 1,000 acres.

West County

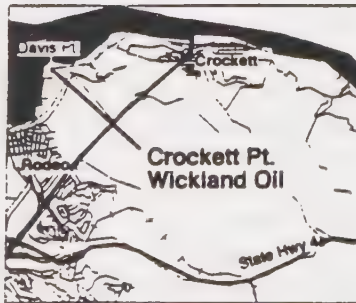
Much of the west side of the hills has already built out. One of the chief limiting factors on more sprawl is the inability of EBMUD to deliver water above a 400 ft elevation, making it prohibitively expensive to develop many of the hillsides and ridgetops of West County. Another limiting factor is that the West County hills are made of clay and other materials that are quite unstable and susceptible to landslides. The Briones Agricultural Preserve to the east has also helped contain the cities.

Pinole

In the Pinole General Plan, a portion of the Pinole-Hercules Ridge, an area of scenic ridgelands at the end of Wright Avenue, is designated for up to 30 estate lots. Given the current housing market, this project is unlikely to advance, as it is above the 400 ft EBMUD service line. The land is currently owned by Shea Homes and is partially located in the Hercules city limit. Even though it could conceivably get services and access from the Hercules side, this is improbable as Pinole has a track record of not allowing new road connections with adjoining jurisdictions.

Unincorporated

Wickland Oil, Crockett Pt./Rodeo: What probably ranks as one of the most questionable planning decisions by the Board of Supervisors (Rogers, Bishop opposed) is their approval for residential development on the Wickland Oil property at Davis Point. This parcel is north of Rodeo, at the edge, and downwind, of the Unocal refinery that is known to release odorous and toxic air contaminants. This project would place people in extreme danger if a release were to occur, as several chemicals processed on site are considered to be "acutely hazardous." One of the proposed mitigations is to make the homes airtight in case of a potential toxic leak, implying that there will be one some day. The project was approved in 1994 for 124 units on 28 acres.



Contra Costa County Land Use or Abuse?

The Board of Supervisors approved the Crockett Point development at the edge and downwind of the Unocal refinery that is known to release odorous and toxic air contaminants.



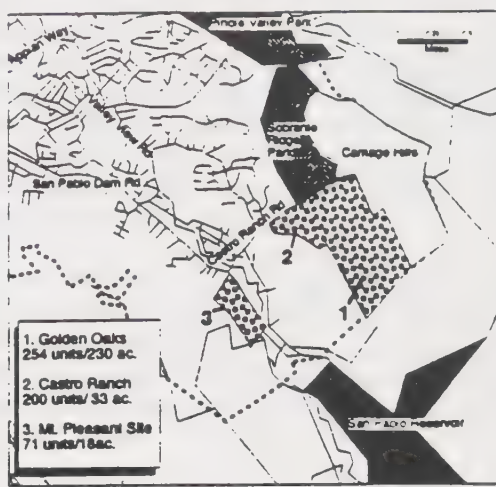
**Contra Costa County
Land Use or
Abuse?**

Developers have yet to turn a shovel of dirt on the 630 acre Franklin Canyon site Hercules annexed in 1990. Yet the City is going full steam ahead to gobble up even more of this scenic canyon.

Richmond

Sprawl pressures in El Sobrante Valley have been pushing the urban edge farther back into the hills. In 1985, the Carriage Hills leap-frog development was approved west of Sobrante Ridge Park. Homes in this subdivision have been plagued by landslides.

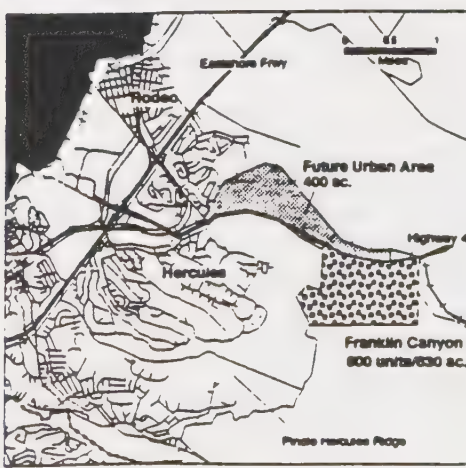
Immediately to the south of Carriage Hills, in the City's sphere of influence, is the 230 acre Golden Oaks site on which 254 homes have been proposed, though the EIR was withdrawn in 1993 and has not been resubmitted.



Also in the same vicinity is the proposed Castro Ranch development of roughly 200 townhouses on 33 acres south of Castro Ranch road on a heavily wooded site. It has been stalled by neighborhood opposition for years. An EIR has been certified but the area has yet to be annexed to the city. Another project in the preliminary design phase is the 71 unit Mt. Pleasant development, proposed for 18 acres on San Pablo Dam Road, just south of the junction with Castro Ranch Road. This property lies partially in the County's jurisdiction and would need to be annexed to the City.³⁰

Hercules

The city of Hercules has experienced phenomenal growth. In the twenty years between 1970 and 1990, the population grew from 252 to nearly 17,000 people. In 1990 it annexed 630 scenic acres in the Franklin Canyon area owned by the Tai Development Corporation. Even though much of it is steep terrain, there



are currently plans to build up to 600 homes on the site. Also of concern is the area west of the Franklin Canyon Golf Course along Highway 4, which is within Hercules' sphere of influence. The planning process for this area is on hold until the Highway 4 relocation and widening project gets further along. The City has indicated it will annex this parcel in Fall 1996.

Infrastructure Issues

Transportation

One of the most basic laws of land use planning is that wherever major roadway networks go, development will follow. One only has to look at the I-680 corridor through Contra Costa County, the I-80 corridor in Solano County, and the Route 101 corridor in Sonoma County to see this principle in action. Another important fact about roads is that widening them often doesn't reduce traffic, but only shifts the congestion downstream to a new bottleneck. Moreover, once a road is widened and the congestion suddenly decreases, drivers only initially experience the benefits of a faster rate of travel. As word spreads, drivers on other local congested routes begin to use it. Those who had shifted commute times to avoid the problem shift back to a more convenient hour. Some public transit users also begin driving again. Finally, more people are enticed to move farther out and use it as a commuting route, which is why it has such a growth-inducing effect. Before long, the widened section of the road is as congested as it ever was.

Measure C, 1988

In 1988 voters passed Measure C, the "Contra Costa Transportation Improvement and Growth Management Ordinance" which implemented a 20 year one-half percent sales tax for transportation planning and construction. The growth management component was the crucial element for getting the measure passed, as two years prior, a similar sales tax for transportation funding that lacked this feature went down in defeat.

The ordinance is explicitly aimed at relieving "existing" congestion problems and ensuring that future developments pay their own way and do not cause further deterioration of traffic conditions or county and city services. It is expected that over the life of the measure, \$730 million will be generated for road improvements.

The measure requires the County and cities to adopt a growth management element as part of their General Plans, including performance standards for fire, police, parks, water, flood control, and sewer facilities. General plans must also include traffic service standards for key intersections and routes of significance.

In order to receive their share of funds for local road improvements, jurisdictions must submit an annual checklist to the Contra Costa County Transportation Authority which affirms that the new developments or adopted General Plan amendments will not cause the standards to be exceeded. A traffic analysis showing that key intersections and regional routes of significance won't drop below the adopted standard must be performed on any project that will generate more than 100 vehicle trips per day. Exceptions are only permitted if a five year capital improvements program is in place to bring the service up to the adopted standard, or if the developer pays to fully mitigate the impacts of the development.



Contra Costa County Land Use or Abuse?

The County and some cities want to keep Measure C sales tax money, but do not want to live up to the conditions spelled out for receiving it.



Contra Costa County Land Use or Abuse?

*The County and cities
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Each intersection and route of regional significance is rated on a Level of Service scale (LOS) from A to F. A roadway at "A" would experience a free flow, while traffic on one at "F" has surpassed 100% of its design capacity. One of many loopholes in the ordinance is that a waiver is granted if an intersection or roadway already exceeds the set traffic standards, as long as the existing LOS is maintained. In practice this means that a roadway that is already at level F is exempt from the growth restrictions as it can't go any lower on the scale! If a jurisdiction approves development that causes traffic on a roadway to increase from 110% capacity to 150% capacity, it means bumper-to-bumper traffic for longer periods of the day, yet the growth management standards wouldn't kick in to prevent this. So a jurisdiction can add as many trips as it wants without triggering a cutoff in funds.³¹

Many of the growth management provisions of the ordinance are being flagrantly violated. The County and some of the cities want to keep the sales tax money, but are not living up to the conditions spelled out for receiving it. For instance, Brentwood adopted a new General Plan calling for an increase from 7,500 to over 70,000 residents, even though it could not provide water and sewage treatment capacity, or meet traffic and other infrastructure standards. The Brentwood General Plan acknowledged that car trips would increase ten-fold from 30,000 Trips per day (TPD) to almost 300,000 TPD by the year 2010 and that 90% of the residents will commute to jobs outside the city.³²

Still, Brentwood received the sales tax money for doing exactly what the ordinance was designed to prevent it from doing. At the time, it was rationalized with the argument that Measure C explicitly refers to "General Plan Amendments" and not to a new General Plan itself. In 1994 Brentwood again failed to meet its performance standards and received the funds anyway.

Another egregious example was the County approving the Dougherty Valley General Plan Amendment, even though the development lacked a water source and would cause key intersections to exceed their service standards. In both cases, the fact that level of service targets were not met meant the jurisdictions in question were out of conformance and were suppose to forfeit their claim on road improvement funds. They were still given the money.

Recently the East County Transportation Planning Agency (TRANSPLAN) submitted an action plan that in essence discarded the idea of meeting Traffic Service Standard Objectives (TSOs) altogether. It admitted that abiding by TSO's would cause a moratorium on development. So to get around this, it inserted a provision that TRANSPLAN can make a finding of overriding public benefit and ignore the TSOs or alternatively, the developer could choose an indirect mitigation from a "toolbox." One example of a possible mitigation is that the developer build a "fitness center" at one of the existing business parks to help make it more attractive for new employers.³³

In summary, some jurisdictions are choosing to ignore the growth management provisions and are getting away with it because the Transportation Authority will not enforce them. Even though Measure C is being violated in letter and spirit, plans are in the works to put an early extension on the ballot, allowing

the Authority to float bonds in anticipation of future revenues so the money will keep flowing. However, a recent California State Supreme Court ruling requiring a two-thirds majority for any tax increase has greatly diminished the prospects for its extension.

East County Regional Transportation Fee

For each new building permit issued in East County, an average fee of \$4,000 is levied for this fund. It is expected to raise \$200 million, which is estimated to cover roughly half the cost of widening Highway 4 (\$238 million), constructing a four lane Highway 4 Bypass (\$225 million), and a four lane Buchanan Road Bypass (\$19 million). As of spring 1995, only \$300,000 had been collected.

The fee estimate is based on issuing building permits for 50,000 new homes. According to the Adopted Countywide Comprehensive Transportation Plan, even if all the money is collected and the road projects are built, these improvements would add enough capacity to accommodate only 27,000 of these homes. The development needed to generate money to build these roads would spawn almost twice as much traffic as the new roadways could handle. The Transportation Plan states that even to serve those 27,000 units, these road improvements themselves would be insufficient to meet road service standards without a widened Marsh Creek Road and the East County Corridor — a four lane freeway that would extend the proposed Delta Expressway to Livermore.³⁴

Where will the rest of the funding come from? There is insufficient money available to pay for projects already approved by the State of California in the current State Transportation Improvement Program (STIP). (This is a seven year list of approved projects already in the pipeline for funding.) If these East County projects are included in the Regional Transportation Plan (RTP), are advanced to the Regional Transportation Improvement Program (RTIP) at the expense of other regional projects, and make it into the next seven year STIP, it is still anticipated that this STIP will be even more underfunded than the current one. The prospects for State funding are unrealistic.

The following are some of the most growth-inducing road projects proposed for the County:

Highway 4 East

This freeway functions as the main gateway to East County and has served as a major constraint on growth. Currently it is configured as a four-lane highway between Concord and the Antioch Bridge. The portion between Concord and Bailey Road, west of Pittsburg, will soon be widened to allow for BART in the median and an 8 lane freeway that includes 2 HOV lanes. Most of the \$80 million from Measure C allocated to Highway 4 has already been spent on this portion. Widening the section between Bailey Road and Hillcrest Boulevard in East Antioch and adding two new intersections is estimated to cost \$238 million.³⁵ Only a fraction of the funds are currently available to build it. Even though a portion of the regional transportation fee is slated for this section, at



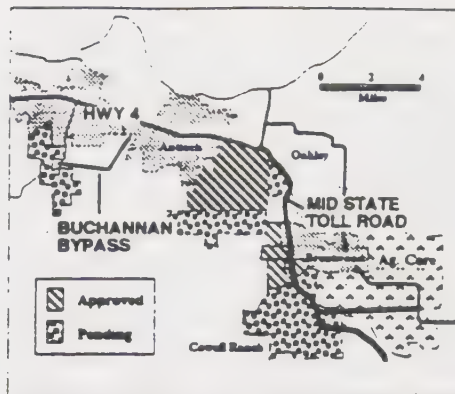
Contra Costa County Land Use or Abuse?

According to the EIR for the County General Plan the Willow Pass Grade will remain gridlocked, even at six-lanes with BART in the median, truck climbing lanes and carpool lanes.



Contra Costa County Land Use or Abuse?

most it could cover only half the projected costs. Developers and officials are aggressively pursuing state funds, federal ISTEA grants, and are attempting to raid Measure C money from other projects to pay for it. The lack of money to fund this infrastructure hasn't stopped the County and cities from approving more houses and further burdening already congested freeways.



Projections show the traffic on Highway 4 will more than double by the year 2010. But even if this widening project is funded, the EIR for the County General Plan found that the Willow Pass Grade will remain gridlocked, even at six-lanes with BART in the median, truck climbing lanes and carpool lanes.³⁶ What will be the effects downstream when all these cars reach Highway 680, 242, 24, and Ygnacio Valley Road? Building out East County will also increase pressure to widen Marsh Creek and Vasco Roads, even though these projects pass through fragile ecosystems and would require massive grading.

Highway 4 West

The stretch between Cummings Skyway west of Martinez and Highway 880 is currently a two lane road. The Contra Costa Transit Authority (CCTA) is studying the possibility of siting a new four lane freeway north of the existing roadway in order to avoid sensitive habitat and impacts on parkland. Planners site safety concerns as the major driving issue behind this project. But if this were actually the case, it would be a lot cheaper to buy a couple of feet of right of way where needed and simply put up a center divider on the existing roadway to discourage head on collisions. Measure C only targets \$45 million for the project. A new freeway would cost \$105-110 million, though cheaper alternatives are also being examined. The alignment of the new roadway will be decided early in 1996.

Mid State Toll Road/Highway 4 Bypass/Delta Expressway

In 1990, Assemblyman Bill Baker sponsored AB680 to authorize four demonstration private toll road projects. Many legislators voted for it based on his assurances that no state and federal funds would be used. The 85 mile Mid State Toll Road, from Sunol to Vacaville, was chosen as one of the projects.³⁷

Without any public review, the California Dept. of Transportation (Caltrans) proceeded to sign a franchise agreement with the California Toll Road Company, a consortium of the Bank of Paris, Westpac of Australia, and Parson's Engineering based in Southern California. Under the terms of the contract, Caltrans is required to condemn the land needed for the road, force jurisdictions to issue the necessary permits, and stop local agencies from building competing

facilities in the franchise zone for the next fifty years. In addition to the guaranteed monopoly, the Toll Road Company is entitled to receive up to a 21% annual rate of return on its investment and sublet airspace along the route for commercial centers. In exchange, California would accept almost all liability for the road and regain ownership in 35 years, just as the road begins to need major repairs.

According to the franchise agreement, if jurisdictions pass laws that make it more difficult for the Toll Road Company to make money, the Company is entitled to a bailout from California taxpayers. This makes it impossible to stop the road in the legislature or at the local level, as California taxpayers would not only be liable for money already invested, but also for the Company's unrealized profit, which could potentially reach billions. One of the only remaining legal avenues for stopping the project is for Caltrans to pick the "no build alternative" in the environmental review process. If this were to occur, it would be unprecedented. Twenty-three local jurisdictions and regional agencies have passed resolutions opposing the Mid State Toll Road.³⁸

The Toll Road has been divided up into separate segments to ease its way through the planning process. The Solano section is not currently being pursued as it would require two bridges across the Delta and pass near the Suisun Marsh. The Toll Road developers claim they have abandoned this section, but have refused to remove it from their contract. Traffic projections indicate that the southern end of the Toll Road, the portion between I-580 and Sunol called the "Isabel Expressway," would probably be the most lucrative. The section between Antioch and Livermore is called the "East County Corridor." The southern portion of the East County Corridor traverses environmentally fragile areas and would be extremely costly to build.

The northern part of the East County Corridor, referred to as the "Delta Expressway" or "Highway 4 Bypass," includes the section between Antioch and Brentwood. It would cost \$225 million to build as a four lane road. This section of freeway would open up vast areas to more sprawl. Many development projects are currently on hold awaiting approvals for the Toll Road. Cowell Foundation, Antioch's Future Urban Areas #1 and #2, and the continued build-out of Brentwood are all contingent on this road being built.

The Toll Road developers are looking for other public sources of money to help fund the private road. The East County regional transportation fee – averaging \$4,000 per unit – is slated to pay half the cost of the Highway 4 Bypass segment. Local politicians are still aggressively seeking state and federal money to fund construction of interchanges for the tollway. In 1994 \$30 million that had been earmarked to build the East Dublin BART Station was diverted to help pay for part of a new intersection on Highway 580 for the Isabel Expressway portion of the Toll Road.

The Toll Road Company is currently preparing an EIR. Their contract stipulates they must complete environmental review by 2001 and turn ground by 2004 or lose the exclusive franchise. In order to get public backing, the Toll Road promoters are making many promises, one of which is to limit the number of



Contra Costa County Land Use or Abuse?

*Rainey Bill AB 1019
would allow local
jurisdictions to use public
funds to bail out private
investors from Southern
California, France and
Australia.*



Contra Costa County Land Use or Abuse?

Roughly 6% of the average CCWD customer's water bill is going to pay for the Randall-Bold treatment plant despite the fact that current customers receive no water from it.

intersections to mitigate its growth inducing impact. But these promises are easy to elude as they come without contractual guarantees.

In 1995 Assemblyman Richard Rainey sponsored a bill to set up a Joint Powers Authority, made up of the County and local jurisdictions, to float revenue bonds to pay for a "public" toll road. It is basically just another funding mechanism for the Toll Road Company, which still has the exclusive rights to build all roads within the zone. Besides the fact that public funds would be used to underwrite the speculative profits of the private toll road company, it would place the jurisdictions in a position of great financial risk. The bill died in committee in 1995 and again on the assembly floor in 1996, but it is expected to be reintroduced next year.

Water

Water issues are inextricably linked to issues of growth. It could be argued that every major water project in California was initiated for the purpose of catalyzing growth. Water projects in Contra Costa County are no exception.

Contra Costa Water District (CCWD)

CCWD delivers treated water to 400,000 customers in Concord, Pleasant Hill, Clayton and parts of Walnut Creek. It also sells raw water to Martinez, Antioch, Pittsburg, Bay Point and Oakley. Currently, the District has entitlements for 195,000 acre feet of water per year from the federal Central Valley Project (CVP) of which it is currently using approximately 110,000 acre feet. Its Bollman water plant in Martinez has a capacity of 100 million gallons a day, though it is only using an average of 40 mgd (50 mgd peak usage). The 1987 master plan states that this plant can meet the district's needs well into the 21st century. This conclusion was reached using much higher growth figures than are currently in use. Despite this apparently sufficient capacity, the CCWD management insists that the water capacity has maxed out and has embarked on an ambitious expansion plan, subsidized by current customers.

Randall-Bold Treatment Plant

This \$50 million water treatment facility — approved unanimously by the 1989 Board (Freitas, Boatman, Pelligrini, Butler, Hughey)— was built under joint agreement with the Diablo Water District which serves Oakley residents. The plant has 40 mgd of treatment capacity, enough to serve 200,000 people. Its explicit purpose was to supply East County with treated water, much of which is outside the district boundaries. According to the joint agreement, Oakley is allocated 15 mgd (37.5%) of the capacity and is limited to paying \$15.7 million (30%) for debt service and 37.7% of the fixed operating costs.

The cost for Randall-Bold is largely being shouldered by current ratepayers who are not receiving any water or other benefits from the plant. CCWD customers' annual share of its debt service is \$3 million and another \$600,000

in operational costs. The plant can't be shut down because CCWD is locked into the contract to run it jointly with Oakley. The current Board is left with few options for dealing with this boondoggle. Either they expand the district and try to recover some of their costs, or they continue passing these costs on to customers. Approximately 6% of the average customer's water bill is now going towards paying for this project.³⁹ It was originally assumed that Antioch and Pittsburg would purchase treated water from Randall-Bold, but they have their own municipal treatment plants and have indicated they do not want to buy into the plant. The District has been actively pursuing other customers. The construction of this plant has forced future boards to expand the District in order to live up to their fiduciary responsibility to current ratepayers.

Los Vaqueros Reservoir

This \$450 million reservoir with 100,000 acre feet capacity was sold to voters for two purposes: higher quality water and an emergency backup supply. If higher quality water was the real reason for the reservoir, the District could have chosen a better alternative. The environmental review showed that moving the intake point to Middle River, further into the Delta, would have done more to improve the water quality and at less than half the price tag of Los Vaqueros.

Actually, Los Vaqueros water quality will be lower than customers are currently receiving during certain times of the year. In order to prevent fish kills, the district will no longer be allowed to draw water from the Delta for 75 days of the year. This period is during winter and spring runoffs when the water quality is at its highest. This also means that the water drawn into Los Vaqueros will be saltier. Additionally, the discharge point for Discovery Bay wastewater, which is only receiving secondary treatment, is located near the Los Vaqueros intake.

If an emergency backup was the actual goal behind Los Vaqueros, smaller storage reservoirs closer in or tie lines with neighboring agencies would have been a cheaper alternative and provided a more reliable safety net. Los Vaqueros is so far away from the Bollman treatment plant that an earthquake of sufficient magnitude to disrupt the existing supply would probably knock out access to Los Vaqueros water as well. Additionally, if there were an emergency in the Delta it would be a statewide catastrophe and trigger a quick statewide response, as water projects delivering water to Southern California would also be affected. The emergency supply necessary was grossly overstated to justify a large reservoir. Smaller lower cost reservoirs would have more than sufficed. Furthermore, CCWD's contract with the Federal Water Project stipulates future drought reductions cannot exceed 25% of normal demand. Basic conservation measures alone would have ensured an adequate water supply in another drought.

Developers and municipalities had high expectations that Los Vaqueros could be used to supply future growth in East County, even though the permits don't allow this. Though East County might not be able to get the water through the front door, they are maneuvering to get it through the back door. The District



Contra Costa County Land Use or Abuse?

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Contra Costa County Land Use or Abuse?

Treated water is being sold to Brentwood at the bargain basement price of \$460 acf. By comparison, other municipal suppliers pay \$450 acf for untreated water.

will be storing water far in excess of its present needs, at great cost. It will be extremely tempting to expand the District to spread out these costs. The 1996 budget for debt service on Los Vaqueros is almost \$20 million. This works out to roughly 30% of the average ratepayer's bill. The issues of water quality and reliability seems to have been just convenient excuses to build the reservoir and get existing customers to foot the bill.

Brentwood Municipal Water District

Brentwood has been relying on wells to supply its drinking water. Several of these wells have problems with high nitrate levels. Even so, Brentwood has continued to approve new development without an adequate, secure water supply. By 1995 its current sources of water were fully allocated and it was unable to approve more development until it secured a new source. In September 1995, CCWD signed a contract to supply Brentwood with an "interim" supply of 7,000 acre feet of treated water, using entitlements it bought from the East Contra Costa Irrigation District (ECCID).

The ECCID sells raw water to farms in the Brentwood area and has entitlements to 50,000 acre feet from the federal Central Valley Project. In 1990 the former CCWD Water Board purchased 21,000 acf of entitlements from ECCID. The water can only be used in a specific area of East County which is outside CCWD boundaries. This has put the District in a position of having to sell the water to Brentwood to recoup their costs. CCWD claims it is an "interim" supply. But once Brentwood connects to Randall-Bold and the water starts flowing, it would be nearly impossible to turn it off, especially when Brentwood begins approving new development based on this supply. Furthermore, according to the agreement, Brentwood will not be reimbursing current ratepayers for their investment in Randall-Bold or Los Vaqueros, which will be used to convey the water. The treated water is being sold to Brentwood at the bargain basement price of \$460 acf. By comparison, other municipal suppliers pay \$450 acf for untreated water and CCWD regular customers pay a whopping \$1,200 acf for treated water (including distribution).

Byron-Bethany Irrigation District (BBID)

Currently the BBID uses 35,000 acre feet and has rights to 40,000 acf. It does not provide treated water to District residents who are dependent on well water. Studies have been initiated on the sale of water rights to CCWD who would in turn sell residents treated water.⁴⁰

Discovery Bay

The existing community has sufficient well water, even though it is aesthetically unpleasant, as it exceeds drinking water standards for manganese and iron. It is expected that new developments approved nearby will double the demand for water and will require new wells that could potentially create adverse impacts on the aquifer.

East Bay Municipal Utilities District (EBMUD)

During the environmental review for Dougherty Valley, EBMUD made it clear that it did not have sufficient water to serve the project and still meet the projected needs within its current service boundary. The Water District is currently using 220,000 acre feet and has entitlements to 364,000 acre feet of water from the Mokelumne River. When the Board of Supervisors proceeded to approve the Dougherty Valley development in December 1992, EBMUD filed suit. In May 1994, a Superior Court judge ruled in favor of EBMUD. The County and developers appealed but the case never went to trial.

In November 1994, developers skirted strict campaign finance restrictions and formed a political action committee that raised \$180,000 to oust what they called "environmentalist" Board members. Their efforts were successful and a pro-development faction took control of the Board. The new Board resurrected the controversial American River pipeline, which has an estimated cost of \$115 million and will add another 150,000 acre feet to the District's supply. EBMUD also agreed to settle the Dougherty Valley lawsuit and become the backup water supplier for the project starting in the year 2002 if the supplier of choice (Dublin San Ramon Services District) is unable to provide the water.

Assemblyman Richard Rainey is sponsoring a bill to create a streamlined process for breaking up EBMUD. Using the issue of unfairness regarding steeply tiered water rates, developers want the east side to secede from EBMUD, so they can potentially wield even more control over the water supply and make current ratepayers subsidize water service for future valley developments.

Dublin San Ramon Services District (DSRSD)

DSRSD is a small water retailer which has aspirations to grow considerably larger. It buys water wholesale from Zone 7 water agency, which manages the Pleasanton aquifer and also provides water to other retailers.

As part of the quest for a water supply for their project, Dougherty Valley developers provided money to DSRSD to conduct a search for water in other parts of the state. It found the virtually bankrupt Berenda Mesa Water District in Kern County near Bakersfield. A proposed water transfer deal was put together whereby the rights to 7,000 acre feet of water would be transferred to DSRSD via Zone 7. An EIR for the proposed water transfer is currently out for review and comment. The EIR is already the subject of a legal challenge by the California Planning and Conservation League.

The Zone 7 Board is studying the water transfer proposal and has expressed serious concerns. DSRSD has indicated that it is prepared to go it alone if Zone 7 refuses to cooperate, although this option would take longer and be more expensive. DSRSD plans to provide water to several large developments including Dougherty Valley, the already approved East Dublin project (12,000 units), and the proposed TVPOA project in the Tassajara Valley (6,200 units).



Contra Costa County Land Use or Abuse?



Contra Costa County Land Use or Abuse?

Sewage Capacity

Sewage disposal capacity plays an extremely important role in the development arena. Right now it is a major limiting factor for growth in East County and the Tri-Valley, as several sanitary districts have run up against their waste disposal ceiling. Without added waste water capacity, several jurisdictions will be forced to call a halt to their expansion plans.

Dublin San Ramon Services District (DSRSD)

Currently most of the wastewater from the Tri-Valley region is exported west to the San Francisco Bay via a pipeline controlled by the Livermore-Amador Valley Water Management Agency (LAVWMA). At the other end, East Bay Dischargers Authority (EBDA) controls the quantity of effluent that is discharged into the San Francisco Bay. DSRSD is allocated a portion of the discharge capacity of this pipeline. New development already approved in the Tri-Valley area will create more wastewater than the existing pipeline can accommodate. The general manager of DSRSD has recently been quoted as saying that existing capacity is only sufficient for some 2,000 additional new connections.⁴¹

The current pipeline is old and must be replaced at considerable expense. It is possible that DSRSD could obtain the funds for a larger pipeline from developers but its ability to discharge into the Bay would be dependent on gaining more disposal capacity from EBDA. Though LAVWMA has been negotiating with EBDA for an additional 11.42 mgd sewage disposal capacity, it is unlikely to be granted. EBDA and the cities of Livermore and Pleasanton have been insisting that urban limit lines and responsible, managed growth measures be put into place for all the Tri-Valley cities and counties before they will agree to increase the sewage capacity discharged into the Bay. These are conditions that the City of Dublin and DSRSD have so far been unwilling to meet.

Realizing that the pipeline expansion possibilities may be remote because of the political situation and high costs, DSRSD is studying the possibility of using a controversial reverse osmosis process to recycle waste water into drinking water. Public reaction has not been to enthusiastic. Although not approved, plans are being made to commence the construction of a reverse osmosis plant in 1997. A plant capable of processing 2.5 million gallons of wastewater daily has been estimated to cost at least \$14 million. Aside from the high construction costs of the plant, reverse osmosis is a very expensive process, some say 5 times as expensive as fresh water. The process also uses extraordinarily large amounts of energy. Nevertheless, DSRSD has mounted a \$40,000 public relations campaign to win support for the plant.

East County

In Brentwood the lack of sewage treatment is especially critical as housing developments already approved are expected to take up the remaining capacity.

In order to approve more development, the City must expand its existing land disposal system or build a new sewage treatment plant. The latter alternative is highly unlikely as it would be difficult to get a surface water discharge permit to dump effluent directly into the Delta, because CCWD and Antioch rely on it for drinking water. Currently the City is using a land disposal method whereby waste water percolates through sand and then drains into Marsh Creek. The City is also negotiating with the Iron House District to take its sewage.

The Iron House Sanitation District covering the Oakley/Bethel Island area is also approaching capacity. It disposes of its effluent on Jersey Island through a combination of irrigation, evaporation, and percolation. It too is unlikely to get a permit for surface water discharge as the site would be just 7 miles upstream from Antioch's drinking water intake.

Delta Diablo, on the other hand, can discharge into the Delta, but is already operating at 78% of its treatment capacity, 96% on peak days, and needs to expand further to accommodate growth.



**Contra Costa County
Land Use or
Abuse?**



Contra Costa County Land Use or Abuse?

Conclusion

There is still much worth saving

- The remaining unspoiled hillsides and open countryside lend character to Contra Costa's communities, endow them with a sense of place, and enrich the quality of life for all County residents.
- Clean air, uncongested roads, and scenic vistas can help attract jobs and commercial enterprises, so that Contra Costa's communities can continue to enjoy long term economic benefits.
- Contra Costa County boasts some of the best soils and growing conditions in the world for food production. Agriculture is still an important industry, providing over 3,000 jobs and pumping \$80 million into the economy.

But Contra Costa County is rapidly squandering its valuable resources

- 50% of the County's orchards and cropland have been lost since 1970.
- The 1990 Contra Costa County General Plan opened up 110 square miles of open space to development. The County now has a greater percentage of its land threatened by suburban sprawl than any other Bay Area County.
- 23% of Contra Costa's open space and productive agricultural lands was at risk of suburban development as of 1994. In comparison, Marin, Napa, and San Mateo Counties all had less than 6% of their land at comparable risk.
- The County's 5 acre minimum parcel size allows most of its open space and productive agricultural lands to be broken up into suburban ranchettes. In contrast, other Bay Area counties have protected their rural areas by enacting minimum lot sizes ranging from 60 - 160 acres.
- Development is being approved at an irresponsible rate that far outstrips the market's ability to absorb the new units. On average, only 2,500 new units have been sold each year countywide since 1990. Yet since 1988, at least 45,000 new single family homes have been approved and another 30,000 are currently in various stages of the planning process. The County does not need such a backlog of approved development.
- In 1990 the Contra Costa Grand Jury did a study that determined it costs more to provide services and infrastructure for sprawl development than what is returned to the County in development fees and tax revenues. A host of recent studies have concluded that infill development actually creates a net increase in revenue.
- The County continues to make questionable development decisions, approving massive projects without the required infrastructure in place, in locations that require long arduous commutes and in places that endanger residents - like downwind from heavy industry and on fragile Delta islands below sea level.

- The 1990 Contra Costa County General Plan estimates that infrastructure costs to build out what is allowed under the Plan would be \$270 million for sewage expansion, \$332 million for flood control, \$375 million for water and \$3.5 billion for roads. There are also major costs associated with new schools, fire and police facilities. Only a fraction of this money is currently available.

Alternatives for a better future

- Growth needs to be accommodated in ways that enhance and preserve the special qualities that make Contra Costa such an attractive place to live, protect its natural resources as a regional asset, and nurture vibrant healthy cities.
- Good planning is needed to give people better housing and transportation alternatives. Moderate density residential and mixed use developments should be encouraged within convenient walking distance of downtowns, near major employment centers, shopping areas, and public transit corridors.
- A critical need in Contra Costa is to debunk negative stereotypes associated with infill and show how moderate density housing can be well designed and sensitively blended into existing communities. Pedestrian oriented neighborhoods, streets and public spaces that are integrated with people's work, shopping and entertainment activities can be desirable, safe, attractive and culturally stimulating places to live and work.
- The potential for real urban growth boundaries (UGBs) around each community should be explored along the lines now being carried out in Sonoma and Santa Clara counties. Real UGBs would help distinguish rural from urban areas and would channel more investment back into existing cities.
- Infrastructure should be at the forefront of the debate over new development rather than treating it as a mere afterthought.
- The County should follow the example of other Bay Area counties and get out of the land use business altogether; cities are much better equipped to provide needed services, and handle truly urban and suburban development.
- General plans throughout the County should be revised to reflect a greater commitment to open space and agricultural protection.
- The minimum parcel size for open space should be set large enough to support viable agricultural operations — with a minimum of 320 acres for grazing and 40 acres for intensive agriculture.
- Applications for massive master planned sprawl-type development should be denied as there is already an oversupply of approved housing units that have not yet been built. The County does not need a thirty year backlog of unbuilt units.
- New development should be approved at a more responsible pace that reflects the economic realities of the marketplace and the real financial, political and geographical constraints on infrastructure.



Contra Costa County Land Use or Abuse?

Appendix

Table of Major Contra Costa Developments (July '95)

PROJECT/AREA	UNITS	NOT BUILT	ACRES	STATUS/NOTES
Antioch :				
S.E. Antioch Plan. Area	15,000	8,000	4,500	Planned development approvals have no expiration date.
Future Urban Area #2	1,300	*	800	Specific plan expected Fall '95
Future Urban Area #1	6,000	*	2,700	Specific plan in works, combined could go as high as 9,000 units
Misc.	2,000			
Total approved:	17,000	8,000	4,500	
Total pending:	7,300	-	3,500	
Pittsburg:				
San Marcos	2,938	2,938	554	App.1/93, Contingent on Avila Rd. Extension
Highlands Ranch	915	*	132	Pending
Oak Hills South	500	500	211	Ap. 8/92
Sky Ranch	283	*	160	Pending
Southwest Hills	800	*	2,600	City will attempt to annex in 1996
Misc.	800	563	161	(315 units/55ac. pending)
Total approved:	3,923	3,686	871	
Total pending:	2,313	-	2,947	
Brentwood:				
Back Nine/Brntwd Country Club	992	*	356	Pending
Signature	503	503	192	Ap. 3/92, Exp. 3/96
Blackhawk	935	935	483	Ap. 5/92, Exp. 8/04
Greystone	278	278	124	Ap. 4/95, Exp 4/97
Nunn	275	275	77	Ap. 4/91, Exp. 4/96
Spanos	1,031	1,031	577	Ap. 1/93, Exp. 1/97
Termo	278	278	98	Ap. 1/94, Exp. 1/86
Hancock	940	940	435	Ap. 2/93, Exp. 2/97
Apple Hill II/Blackhawk	1,206	1,201	575	Ap. 5/92
Apple Hill Est./Blackhawk	180	44	69	Gated upscale estates
Summerset/Blackhawk	367	207	93	
Misc.	1,987	1,127	183	(22 units/5 ac. pending)
Total approved:	7,980	6,797	2,906	
Total pending:	992	-	361	
Discovery Bay				
Discovery Bay West	2,000	2,000	756	Ap. 5/95
Albers/Lake View Estates	282	282	74	
Byron 78	*		78	Ap. 4/94 commercial
Total approved:	-	-	908	
Total pending:	-	-	-	
Bethel Island:				
Delta Coves	556	556	310	Awaiting Army Corp permit
Cypress Lakes	1,330	1,330	690	Ap. Apr-93, financial difficulties
Leshner Landing	1,079	*	870	(Neither are going forward at this time, but could be potentially resurrected in the future.)
South River	575	*	351	
Conner Property (condos)	236	236	150	Ap. 3/87, Exp 7/96
Bacon Project	76	76	180	Ap. 1/93
Misc.	167	?	?	
Total approved:	5,506	2,198	1,330	
Total pending:	1,654	*	1,221	
Cowell Foundation	6,000	*	4,272	EIR in Progress
Oakley:				
Misc.	2,000	?	?	
Bay Point:				
Uninc.- Shriners	48	48	51	Ap. 95

* Misc. (miscellaneous) represents a composite of units in minor projects

PROJECT/AREA	UNITS	NOT BUILT	ACRES	STATUS/NOTES
South County				
Dougherty Valley	11,000	?	5,979	Ap. 12/92, 1,200 Gale Ranch under constr.
Wiedemann Ranch	351	351	370	Ap. 12/92
Tassajara (TVPOA)	6,200	*	4,000	Draft EIR expected April 96
Central County				
Orinda - Gateway	235	235	1,000	Ap. 11/94
Uninc. - Clayton Ranch	115	*	1,030	Pending
Clayton - Oakhurst	1,486	526	358	Ap. '87
Concord - Crystal Ranch	451	451		Ap. '90
Summit	246	*	80	Pending, 17 acres commercial
Moraga - Palos Colorados	146	*	476	Pending
Pleasant Hill - Grayson	104	*	50	Pending
West County				
Wickland Oil, Crockett Pt.	124	124	28	Ap. 11/94
Uninc - El Sobrante	154	?	?	Misc. Approvals
Hercules - Franklin Canyon	600	600	630	Specific Plan Underway
Future Urban Area			400	Applying for annexation
Richmond - Castro Ranch	254	*	33	Pending
Mt. Pleasant	71	*	18	Pending
Golden Oaks	200	*		EIR withdrawn 7/93

Note: Almost all of these units have been approved by Contra Costa County or cities within the county since 1990. Some were approved between 1988 and 1990, and a few were approved prior to 1988. The vast majority of these units remain unbuilt.

Estimate of countywide single family housing development which were approved or have entered the planning process since 1988:

At least 45,000 approved

At least 30,000 pending

New Home Sales 1990 - 1994

	1990	1991	1992	1993	1994	90-94
Antioch	1054	757	756	838	559	2364
Bethel Island	24	8	9	8	5	54
Byron/Discovery Bay	292	274	67	109	49	791
Brentwood	7	136	234	24	24	425
Oakley	382	196	257	590	476	1901
Pittsburgh	186	179	226	181	53	825
Bay Point		113	41	14	1	169
East County Total	1945	1663	1590	1764	1167	8129
Alamo	137	126	34	34	24	355
Danville	86	82	51	10	23	252
San Ramon	15	43	130	86	78	352
Clayton	92	71	23	79	46	311
Concord	108	100	70	85	81	444
Walnut Creek	102	113	72	64	70	421
Pleasant Hill	21	12	16	3	2	54
Orinda	51	48	44	18	4	165
Lafayette	76	28	23	20	15	162
Moraga	3	4		1	4	12
Martinez	46	132	75	48	23	324
Port Costa		1		1		2
Diablo	3	2	2	4	2	13
Pacheco	1		10			11
Central County Total	741	762	550	453	372	2878
Crockett	11	6	4	5	1	27
El Sobrante	34	24	22	8	7	95
Hercules	129	53	25	62	11	280
Kensington	1	5	1		1	8
Richmond	233	59	88	66	25	471
Pinole	122	70	8	5	5	210
Rodeo	5	5	4	9	7	30
San Pablo	39	78	100	28	17	262
West County Total	574	300	252	183	74	1383
County Total	3260	2725	2392	2400	1613	12,390



**Contra Costa County
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Endnotes

1. These early inhabitants were eventually rounded up and sent to the missions and the land was held in large Mexican land grants.
2. Greenbelt Alliance, "1992 Public Lands Report."
3. East Bay Regional Park District, December 1995.
4. Ballot Measure Committee Form 419, County Election Office. Yes on C: \$200,000, No on F: \$235,000, Vision for a Better Contra Costa (yes on F): \$40,000.
5. Dean Leshner, then owner of The Leshner Newspaper Group, had substantial property holdings in East County on Hotchkiss Tract that would have been off limits to development under Measure F. He contributed \$15,000 to the campaigns to defeat Measure F and support Measure C.
6. Contra Costa County General Plan, 1990, p. 3-19.
7. On 11/3/93 the Ag Core was reduced to 7,695 acres to remove property that was already designated as commercial, light industrial or RV. Parcels that had Williamson Act contracts were also removed for technical reasons, but should still be subject to the 40 acre parcel size under the General Plan.
8. Contra Costa County General Plan, 1990, roads p. 5-19, sewage Ap. F 13, floodcontrol Ap. F 4-6, and water Ap. F 2-5.
9. US Government, "Costs of Sprawl," 1973.
10. California Office of Planning and Research, "New Housing Paying its Way?", May 1979.
11. Contra Costa County Grand Jury, "Report on County and City Government Finances," May 1990.
12. 1994 Contra Costa Ag. Commissioner Crop Report. Employment figures form ABAG on line, (<http://www.abag.ca.gov>).
13. Greenbelt Alliance, "1994 At Risk, The Bay Area's Greenbelt."
14. Contra Costa County General Plan, 1990, p. 5-19.
15. East County Corridor EIR.
16. ABAG on line (<http://www.abag.ca.gov>).
17. City of Antioch Annual Report, 1994.
18. City of Antioch Planning Dept., July 1995.
19. City of Antioch Planning Dept., July 1995.

20. A Mello Roos District is a special assessment district which taxes property owners in a given area to pay off bonds for roads, schools, sewers, or other infrastructure built for that particular area.

21. City of Antioch General Plan, December 1988.

22. State Department of Finance Demographic Research Unit, 1995.

23. City of Brentwood Planning Dept., July 1995.

24. The Back Nine at Brentwood Country Club EIR, Feb 1995

25. City of Brentwood Planning Dept., July 1995.

26. City of Pittsburg Planning Dept., July 1995.

27. Water Resources Board, Water Atlas, 1992

28. Contra Costa County General Plan, 1990, p. 4-14.

29. Insurance information obtained from east County insurance broker.

30. City of Richmond Planning Dept., July 1995.

31. Despite this loophole, some jurisdictions have voluntarily adopted length of congestion standards to conform with the spirit of the Measure.

32. Brentwood General Plan, 1993, pp. 58, 82.

33. CCTA, Final Countywide Comprehensive Transportation Plan, DKS Assoc. "Growth Management and Economic Development Options," pp. 47, 55.

34. CCTA, Final Countywide Comprehensive Transportation Plan Exhibits A - E, East County Exhibit "C", Jan. 94 Memorandum from DKS Assoc. "Technical Analysis of East County Action Plan."

35. Route 4 East Corridor Study (CH2M Hill, 1995).

36. Draft Environmental Impact Report, Contra Costa County General Plan, p. 4.4-24.

37. The lead proponent for the Mid-State Toll Road is the State Route 4 Bypass Authority, a joint powers authority made up of Brentwood, Antioch and the County. At the time the road was chosen, former County Supervisor Eric Hasseltine was chair of the JPA's Finance Task Force, though Hasseltine resigned soon thereafter when his consulting firm Hasseltine-Best began working for Parsons Municipal Corporation, a member of the California Toll Road Development Group.

38. Jurisdictions passing resolutions opposing the Mid State Toll Road include: Contra Costa County, Alameda County, Solano County, Association of Bay Area Government (ABAG), Bay Air Quality Management District



**Contra Costa County
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(BAQMD), Alameda County CMA, Santa Clara County CMA, and the cities of San Francisco, San Jose, San Ramon, Belmont, Berkeley, Cupertino, Fremont, Hayward, Livermore, Los Gatos, Monte Sereno, Mountain View, Oakland, Pleasanton, Sunnyvale, and Danville.

39. The 6% average ratepayer's bill was calculated on the basis of \$60 million in annual revenues and \$3.6 million for CCWD's annual share of expenses for Randall-Bold operations, maintenance, and debt service.

40. Ledger-Dispatch, March 12, 1992.

41. The Independent, February 1996.

CONTRA COSTA

14 February 1997

97 FEB 18 PM 3: 54

COMMUNITY
DEVELOPMENT DEPT

Mr. Harvey Bragdon
Contra Costa Community Development Dept.
651 Pine Street North Wing-Fourth Floor
Martinez Ca 94553

Dear Mr. Bragdon,

This letter is to inform you that we feel the Cowell Ranch project should be denied.

There are many reasons we oppose this development. Among those are:

- * Cowell Ranch relies on future highway improvements that have yet to be funded. Future employers will not locate in an area that is bottlenecked with traffic that interferes with the delivery of good and affects workers ability to arrive at the work site on time.

- * The "leap frog" development would have a negative effect on the local police and fire departments already impacted by rapid growth in the area.

- * Over 5,200 homes and their occupants would have a negative impact on the local traffic and air quality.

- * Habitats would be lost forever for several endangered species.

- * Where will the water for these new homes come from?

- * The project will require exemptions regarding moving the Urban Limit Line.

We request that you deny the application for Cowell Ranch. Even the proposed reduction of 800 homes will have slight impact on any of the above areas of concern.

Sincerely,

Robert Boyer *Janis Boyer*

Robert Boyer

Janis Boyer

3041 Hudson Dr

Brentwood Ca 94513

75.01

CONTRA COSTA

Barbara A. Alexander
1980 Montclair Circle
Walnut Creek, CA 94596

97 FEB 25 PM 3:38

COMMUNITY
DEVELOPMENT DEPT

24 February, 1997

Contra Costa County Community Development Department
651 Pine Street
North Wing- Fourth Floor
Martinez, CA 94553

ATTN: Mr. Harvey E. Bragdon, Director

RE: Cowell Ranch Project

Dear Mr. Bragdon:

The following are my comments concerning the Draft Environmental Impact Report ("Report") for the above referenced project.

The list of significant impacts from this proposed project is staggering. The overall size of the project promises to overwhelm the surrounding area/cities. The infrastructure of the area DOES NOT support this project. The mitigation offered in the Report glosses over the a critical factor in perfecting this mitigation: Money. Will the developer/prospective new homeowners & businesses in this development truly pay for the infrastructure needed? For example:

76.01

1. Schools: The proposal calls for on-site schools and yet also states: "BUT IF construction funding is inadequate... there would be an impact on existing schools..." I do not see a plan that would require that construction funding be determined and the developer held to complying with such a plan.

2. Roadway Improvements: The Report sites significant and other impacts to regional as well as the cities of Antioch, Oakley and Brentwood traffic. The payment for the proposed mitigation in at least one instance (Mitigation T-1) is referred to as "fair-share funding towards...improvements." Is it fair that the entire East County region bear the costs? Is it fair that the developer bear the costs? Again, it appears that the details of the mitigation are rather vague.

76.02

While I applaud the inclusion requiring the provision of a shuttle service and the use of public transit, the Report also states that this would reduce impact to less than a significant level IF Tri-Delta Transit or other transit is able to extend service. Again, have the details of this been determined? Public transit is notoriously underfunded currently. Where will the funds for service expansion come from to support this project?

76.03

In addition, even with the proposed mitigation there would still be significant unavoidable impact to certain regional roadways (SR4 at certain defined areas). This is unacceptable in the face of CURRENT traffic congestion in the

76.04

region. The Report includes a chart reflecting that most roads in the area are currently rated "D" or "F".

76.04

Also, why is a new development allowed to determine the closure of a public road in the area ie; Marsh Creek Road?

76.05

Lastly, the developer's plan has not even be able to conform to current city standards ie; width of streets in the city of Brentwood or safety conditions ie; unsafe long cul-de-sacs, only one entrance to the proposed community college and "Y" intersections. This would appear to be evidence of a less than well-intentioned effort to become PART of the region and conform to obvious standards of urban design. Is this evidence of cost-cutting measures on the part of the developer?

76.06

3. Public Facilities: How will the on-going funding for police and fire protection be handled? Who will participate in the 'fair share' funding for the development of sewage and water treatment facilities?

76.07
76.08

If the funding for the vast mitigation efforts is defined and borne by the development, I do not see how the housing can be affordable. To look to the surrounding region/communities to fund these efforts is inappropriate. Thus it would appear that this project cannot afford to be built.

76.09

Other factors reviewed in the Report that give rise to concern are those based on the geography of the site. For example:

1. Drainage, Flood Control, Water Quality: In looking at the maps included in the Report, it appears that this project would at least partially be on a flood plain / in a watershed. 'Paving over' these areas does not make the problems of building in these areas 'go away'.

76.10

~ To whom will the prospective new homeowners & businesses go to fund repairs when their properties are flooded?

~ How will the integrity of the watershed be maintained in the face of the future pollutants from this development?

76.11

~ Brentwood's water system currently has reached sustaining capacity.

There is NO water available for this development. If the development is annexed to Brentwood as proposed in the mitigation HOW will the alternative solutions to this lack of a water supply be funded? (there is that money issue again.)

76.12

2. Biological Resources: This development will mean a loss of plant and wildlife habitat. Destroyed 'Blue Oaks' cannot be mitigated into re-existence. Plant and animal communities exist because of habitat conditions. This project would destroy those conditions PERIOD. An 'Habitat Management Plan' is a contradiction in terms if there is no habitat.

76.13

3. Agriculture: As in the loss of habitat issue, how do we mitigate the loss of agricultural land? Based on CEQA criteria it would appear that this project would have a significant impact. We have seen elsewhere in the Bay Area

76.14

what the result of development adjacent to agricultural lands has been. This is another example of a less than well-intentioned effort to become PART of the region but rather to dominate it.

76.14

4. Land Use: There is NO mitigation for the unavoidable significant impact of the loss of open space and the encroachment on State Park lands.

76.15

5. Soils and Geology: If somehow the money and will were brought to bear to make this project work, we still must face an unavoidable fact of nature—the Report states that the area is ... "likely to experience strong seismic shaking...." and "ground failure" cause by such shaking. How to we mitigate that away? As with the potential damage from flooding, if there is damage from an earthquake, WHO PAYS to repair the damage? The Federal government, in the wake of the spring flooding along the Mississippi and other rivers in the Midwest, has developed a plan to move people out of the floodplains. When people are not in harm's way initially why would we want to create an hazardous situation?????????

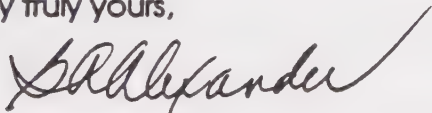
76.16

I would suggest that in this instance the conclusion I came to from reading the Report is that we ought not to build this proposed development on the Cowell Ranch property in the first place. I strongly urge Contra Costa County NOT to approve this development.

76.17

I would appreciate remaining on the mailing list for future developments on this project. Thank you.

Very truly yours,



B. A. Alexander

CONTRA COSTA

97 FEB 26 PM 4: 25

COMMUNITY
DEVELOPMENT DEPT

Merry L. Nail
3900 Sellers Ave.
Brentwood, CA 94513
February 25, 1996

Contra Costa Planning Department
651 Pine Street, North Wing, 4th. Floor
Martinez, CA 94553

TO WHOM IT MAY CONCERN,

I have lived in the Brentwood area of East Contra Costa County all my life. My ancestors farmed here and I still reside on the old family property on Sellers Avenue. My family gave the East Contra Costa Historical Society the old farmhouse that serves as a museum to showcase the agricultural past of this area. My roots in this community run deep.

Over the years I have watched with dismay as the sleepy rural towns changed to sprawling suburbs. I can remember a time when you didn't have to lock your house. Keys could be left in the car parked in your yard and when you walked down the street people greeted you by name. Animals such as possums, fox, and wild birds abounded in the fields and orchards and the air was clean and healthful.

I feel that the proposed "Cowell Ranch" project would be a death knell to the East Contra Costa area. People who moved to the area, did so because it was a quiet, rural place that seemed safe and peaceful. Now we have gangs, overcrowded schools, freeways that cannot handle the current commute, polluted air, and wild creatures that have to compete for space.

I am vehemently opposed to the Cowell Ranch proposal. I know that the area cannot remain as it was in my youth, but we are turning it into a Los Angeles ghetto with projects such as Cowell Ranch.

Sincerely,

Merry L. Nail

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77.01



February 25, 1997

James Cutler
Assistant Director of Comprehensive Planning
Contra Costa County
Community Development Department
651 Pine Street
North Wing - Fourth Floor
Martinez, CA 94553

Re: Cowell Ranch DEIR
County File #1-92-CO, Rezoning #RZ933014
State Clearinghouse No. 93013024

Dear Mr. Cutler:

The City of Brentwood appreciates the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Cowell Ranch project. This project is of substantial significance to both Contra Costa County and the City of Brentwood. The DEIR provides a comprehensive analysis of the potential environmental impacts which might result from development of the project, as well as a range of measures intended to mitigate such impacts. Based upon our review of the DEIR, we would like to submit the following written comments. We look forward to your written responses to each of these comments, and inclusion of the comments and responses in the Final EIR.

COMMENTS

Coordination With City of Brentwood General Plan, General Plan EIR and Annexation Policy

The City of Brentwood General Plan (GP) was adopted by the City Council on June 8, 1993. A full EIR on the General Plan (GPEIR) was certified by the City Council on that same date. The

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Cowell Ranch DEIR dated October 1996, is not very well coordinated with the City of Brentwood's GP, and it does not appear to cite the City's GPEIR.

The City's GP includes the area of the Cowell Ranch project, which is termed "Special Planning Area J" (see General Plan page II. 1-43 to 44). The City's GPEIR recites that it is a tier 1 California Environmental Quality Act (CEQA) document citing Guidelines Section 15152. That EIR has been adopted and the time for challenging it has expired.

CEQA Guideline Section 15152 describes the process of tiering noting, in part, that **any** lead agency for a later project should limit the scope of the EIR as stated in the Guidelines. In addition, CEQA itself provides that where a parcel has been designated in a community plan to accommodate a particular density of development and an EIR was certified for that planning action, the application of that division to the approval of another project that is consistent with the community plan is limited (Public Resources Code Section 21083.3).

The Cowell Ranch DEIR does not acknowledge the City's General Plan environmental analysis, even though Cowell and the City have entered into a "Cooperative Planning Memorandum of Understanding" (MOU) which clearly provides for eventual annexation to Brentwood. The County was very much involved with preparation of the MOU. There are several inconsistent statements relative to annexation of the Project area to Brentwood sprinkled throughout the DEIR Introduction, Summary and Project Setting. Most glaring is the reference on pages III-10 and IV.A-38 that the applications submitted by Cowell to the County are "not contingent upon annexation." Yet, Principle 3 of the County's Guidelines for the Cowell Ranch General Plan Amendment Study (Appendix 2 and III-9), as agreed to by Cowell (III-11), state that one of the objectives of the Project is to have a "largely self-contained community within the City of Brentwood." As annexation is a goal of the Brentwood GP, these inconsistent statements need to be reconciled.

Brentwood and the developer have consistently contemplated that the property would be annexed to the City of Brentwood. The DEIR notes, however, that the property may not be annexed to the City of Brentwood and that if it is not annexed, that will contribute to the feeling that the project is separate and distinct from Brentwood (DEIR, IV-A-38). This issue should be resolved. In addition, we suggest that the EIR identify a mitigation measure that any development agreement with the County should require annexation to the City.

We recommend that Mitigation LU-4 declare that annexation be required as part of the Project. It appears that many conclusions of the DEIR are premised on annexation. For example, after a lengthy discussion on the need for parks within the Project, Impact PF-15 and accompanying Mitigation Measure PF-15 "require the project to comply with Brentwood Park and Recreation Plan standards for parks" which would be irrelevant if annexation did not occur. However, future annexation to the city is not listed as an action to be undertaken as part of the DEIR Project Description, nor is future annexation noted elsewhere in the document. We also recommend that the Cowell EIR Project Description be modified to include a request for future annexation of the site to the City of Brentwood, in recognition that annexation is contemplated (in the City's General Plan, as well as within Principle 3 of the County Board of Supervisors guiding principles for future development of the Cowell Ranch), note that the proposal is

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consistent with Brentwood's adopted GP and that certain Cowell development related impacts were analyzed in the City's GPEIR.

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The issues of annexation timing, and the provisions of the MOU which call for a joint County/City environmental review and entitlement process for the Cowell Ranch proposal, raise issues relating to the use of common development and other standards by the County and City. These apply to roadway standards and zoning provisions, among others. Due to the cooperative planning approach envisioned in the MOU, the fact that annexation to the City will need to occur (to serve the project with water and sewer), and due to the size, complexity and unique features of the proposal, as well as mitigation monitoring responsibilities, the EIR should include discussion of common review standards to be used by both the County and City. Application of such standards would help ensure that the environmental impacts and mitigations developed through this EIR are acceptable and enforceable by both governing agencies, and that ultimate annexation to the City will not result in City assumption of development patterns which may not be acceptable or serviceable by the City.

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The following comments are provided in relation to specific sections of the DEIR:

Project Description

- Given that one of the five project principals, or objectives, (Section 6a) includes development within the City of Brentwood, the Project Description should be modified to reflect annexation of the project territory by Brentwood and rezoning of the site to the Planned Development (PD) District by the City of Brentwood.
- The DEIR references a "Development Agreement" several places in the text, but the project description does not explain what the proposed Development Agreement is, who will approve such an agreement, terms of the agreement or similar items. To ensure that all aspects of the project are fully documented in the EIR, more discussion of the Development Agreement is needed if the applicant wishes to pursue this. The City of Brentwood/Cowell MOU calls for a Pre-Annexation and/or Development Agreement to be executed between the City and Cowell. This Agreement also needs to be discussed in the DEIR.
- Page III-30, Proposed Arterial Collector and Local Streetscapes: Public streets should conform to existing City and/or County standards, or standards agreed upon by both jurisdictions. Diagonal parking indicated on Figure 11 does not conform with existing standards. Street rights-of-way should also conform to City/County standards.

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Land Use

- LU-1, Loss of Open Space: This topic is also identified as a significant unavoidable impact in the City's GPEIR at Impact 21. The Cowell Ranch DEIR should acknowledge that Brentwood already addressed this impact in its GPEIR.

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The discussion of Contra Costa County General Plan Policy 9.5 (page IV.A-33) seems out of place here if Cowell Ranch is to be annexed to the City of Brentwood. The development would have no effect upon the separation of Brentwood with Antioch or another nearby city. In regard to the project's separation from the City of Brentwood, a condition requiring annexation to the City could be included to avoid a large unincorporated development with no separation between its physical boundaries and those of the City of Brentwood.

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In general, the whole discussion of this issue ignores the stated will of Brentwood and other nearby communities to expand their urban development out to clearly defined limits. Decisions which have in all instances been approved subject to numerous public hearings and environmental review.

- LU-2, Consistency With Population Projections: The discussion of impact and mitigation appears to be a self-fulfilling prophecy and it is unclear how the recommended mitigation would reduce the impact of inducing substantial growth to a less than significant level. Appendix G of the CEQA Guidelines lists "inducing substantial growth" as a potentially significant impact. Since the Brentwood GPEIR has already addressed future growth and development on the project site, the DEIR should consider whether further analysis and mitigation is indeed necessary.

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In addition, the DEIR concludes that development of the Cowell project will result in a potentially significant impact since the population growth associated with the project will exceed "official" regional population projections. The DEIR includes no discussion of historic city growth rates, constraints to growth or any analysis as to how the Cowell ranch project would be phased to be consistent (or inconsistent) with city population growth between 1997 and 2010. The following points need to be considered in the Cowell Final EIR:

1) The "official" population estimates vary to a great degree. The ABAG projection for the year 2010 is 35,000. The City's maximum population estimate per the adopted General Plan is approximately 80,000 for the same time horizon.

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2) With a straight line population increase of 10% per year using 1996 as the base year (13,189), the City could have a population of around 50,000 in 2010. The 10% number is extremely high, an annual rate of 2 to 3% is very healthy for mid to large cities, but is representative of average growth rates in Brentwood since 1990. This is an extremely aggressive growth scenario and does not account for slow-downs due to economic conditions, development of competitive market areas such as Tracy, or other external factors.

3) The DEIR incorrectly assumes that ABAG numbers are somehow reflective of specific properties within a community. They are not. They only include the totality of population, household and similar characteristics in a community as a whole.

4) Table 2 of the Brentwood GP summarizes land use and population projection assumptions. This is the table that establishes a maximum build out population of 79,574. It does not itemize a population for the Cowell Ranch site because no firm land use plans existed for the Ranch at the time the GP was prepared. However, the text of the GP, in the discussion of SPA J, clearly communicates the intent of the GP to allow urban uses on the Ranch site and goes on to suggest a gross maximum density of 2 dwellings per acre for the whole site. This would equate to approximately 10,000 units.

5) Therefore, given that the City's "official" population projection is almost 80,000, it is clear that the proposed Cowell Ranch development project falls within this umbrella of anticipated growth. A strong case could be made that the initial phases of Cowell Ranch project development could occur between now and 2010 (assuming project approval) within the projected 35,000 population base for Brentwood in 2010 made by ABAG.

In summary, the text of the Cowell EIR needs to be clarified to reflect the maximum population build out capacity of the Brentwood GP, the fact that ABAG projections are not parcel-specific and to discuss historic and projected growth rates of the City and their relationship to ABAG projections. This would provide the proper basis for the Final EIR to then conclude whether additional analysis is necessary, and the potential of further impacts and necessity of mitigation.

- LU-3, Regional Housing Needs: Implementation of the Project Housing Strategy (PHS) required by this mitigation measure needs more definition to ensure the development of a variety of housing options. Identification of incentives and programs that will be offered to ensure an appropriate mix of housing should be included in the EIR. A discussion of the Brentwood GP Housing Element policies relating to this issue should be discussed in the Cowell EIR, as well as recognition of the City's Low Income Concentration Study (October 1996), and the ongoing Housing Element Technical Update which will propose the dispersion of housing types and affordability throughout the City. Cowell can and should serve as a model to represent the policies of the updated Housing Element, and the EIR should tie Cowell to compliance with the Element. While the specifics are as yet undetermined, it is likely that the updated Element will include provisions for new residential development to include inclusionary zoning; whereby a mix of housing types and affordability are provided, with a certain percentage of dwelling units to be available as affordable housing, integrated into the overall market rate development pattern.
- LU-4, Physical Changes to Brentwood: The DEIR identifies changes in the character of Brentwood as a significant and unavoidable impact. Brentwood's GP and GPEIR anticipated, however, a development much like that proposed by Cowell. The GPEIR analyzed development which would consist of focus areas with their own centers. The GPEIR mitigated the impact of this by adopting policies that would strengthen the historic downtown by promoting it as the civic, entertainment and cultural center (GPEIR Policy 3.1, page 43). The GPEIR provides that development of the little centers will not be inconsistent with the rest of the City.

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Furthermore, the evaluation of this impact in the DEIR ignores the Brentwood GP which establishes Neighborhood Business areas and other employment generators at major interchanges along the Highway 4 Bypass. All are intended to serve subareas of the City and their approval and development will be scrutinized by the City of Brentwood to ensure compatibility between their uses and those of Downtown Brentwood. The Cowell Ranch Village Centers should be no different so long as the City of Brentwood is in control of project review and approval. Should the area remain unincorporated, however, the types of impacts identified in the DEIR are appropriate ones to be concerned about.

Some other California communities, such as Irvine, are built around a number of "Village Centers" with their own distinct commercial uses and focal points. The overall city identity and character have been strengthened rather than compromised by this pattern.

Moreover, Mitigation LU-4 recognizes that full mitigation would require substantial reduction and other modifications to the proposed development and then concludes that these options would not be consistent with the Brentwood General Plan. This proposed mitigation needs to be amended. Based on our understanding, the project could be reduced and still be consistent with Brentwood's GP. The centers may not need to be eliminated. They could merely be redesigned to be in scale with any reduction in the overall project, and be planned to provide services to Cowell residents, while avoiding competition with downtown businesses. Also, the Brentwood General Plan establishes Neighborhood Business Areas at major interchanges along Highway 4. Proposed Cowell Ranch Village centers would be included and future specific development plans will be reviewed by the City to ensure consistency between proposed specific uses and existing uses in downtown Brentwood. Also, annexation could be included as a mitigation measure.

In regard to impacts of Downtown Brentwood, we suggest mitigations where Cowell would assist existing merchants, the Chamber of Commerce and City in working together in marketing Brentwood and the Downtown. One way to accomplish this is to consider the formulation of a Central Business District, wherein Cowell could play an important role in facilitating development of a Downtown Specific Plan or similar effort.

- LU-5, Impacts on Existing Commercial and Retail Development: The DEIR finds that project-sponsored commercial development could substantially detract business from existing commercial establishments in downtown Brentwood. The proposed mitigations for commercial zoning limitations and establishment of transit links between the project and downtown appear weak in their explanation of why they would have any effect in reducing this impact to less than significant. This impact deserves a more serious treatment as explained in *Citizens Association for Sensible Development in Bishop v. County of Inyo* (1985).

Any new commercial development always has the potential to take business away from existing commercial uses. However, as the population grows so does the demand for goods and services. As we know from preliminary Downtown Brentwood studies, the Downtown could not realistically absorb all of the new commercial demand within the City. therefore, so

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long as efforts are made to assist the Downtown in serving a specialized market niche, there does not appear to be any rational reason to prohibit other commercial uses within Brentwood - especially since provision in the GP have been made for such development along the Highway 4 Bypass. Another consideration is that as a population grows, other commercial opportunities are possible which require a certain critical mass of residents. The need for commercial space to population growth is not a straight line relationship.

Mitigations which could be considered include developing specific lists of permitted uses for the project as part of the P-1 Zoning Book, which will allow project-serving commercial needed by future project residents, but which will reserve larger community, regional and specialty retail for the downtown area. Another possible mitigation is the participation by the project sponsor in efforts to maintain and strengthen the downtown.

Mitigation LU-5 notes that the proposed amount of land devoted to Business Park is only about 65% of that which could be captured by the project. Given the lack of significant other business park land in Brentwood and the identification of a less than 1 job to 1 employed resident jobs/housing balance, it would seem that one mitigation measure that should show up somewhere for consideration is an increase in the amount of land devoted to Business Park use in the Cowell project.

The assumption that commercial uses within the plan area will be developed at a minimum floor area ratio intensity of 0.35 appears high. A floor area ratio of 0.25 is a more appropriate assumption for any one story retail commercial uses.

- LU-6 identifies the impacts on rural residential uses as a significant and cumulative impact. This item is identified as an impact in the land use section of the DEIR, but the impacts it raises are also discussed throughout Brentwood's GPEIR. For example, Item 41 of the GPEIR identifies cumulative traffic conditions in adjacent areas as a significant unavoidable impact. The GPEIR acknowledges that development will have a significant unavoidable visual impact (pg. xvii and 107). Traffic noise is identified as significant and unavoidable on pg. lxii of the GPEIR. The impact of development on rural land uses is discussed in Impact 21 of the GPEIR. Since these impacts are discussed in the Brentwood GP and GPEIR, only limited additional analysis is required (CEQA Guidelines Section 15152, Public Resources Code Section 21083.3).
- LU-7, Impacts on John Marsh Home State Park Site: The requirement in the mitigation measure for approval of specific design studies by four separate bodies might be difficult without a requirement for an upfront agreement upon standardized review criteria.
- LU-11, Jobs/Housing Balance: This mitigation measure calls for an Economic Development Program (EDP) including onsite jobs/housing targets, with annual reporting, and if at the annual report date targets have not been met, establishment of a limit on further residential development. The concern here is that some unspecified number of dwellings could be built in the initial one year period before a report is made, and only then could a limit be imposed if job targets have not been met. This mitigation needs to be revised to require a legally

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enforceable mechanism for requiring a link between jobs/housing provision, with the specifics aimed from the outset at allowing a predetermined, limited number of dwelling units within a set time period, with an acceptable predetermined number of jobs to be provided in a set time frame. The progress reports should be spaced at least once every six months, with provisions for enforcement if quotas are not met. These specific provisions should be determined through a Development Agreement between Cowell and any successors, the City, and possibly the County.

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- LU-12, Resident access to on-site jobs: Even in "neo-traditional" town plans today, all development is unlikely to be located within ¼ mile of project commercial, job and transit centers. A more realistic standard is probably 1 mile which is a reasonable bicycle access distance. While an internal transit system might be desirable, cost and other factors could make that hard to achieve. Financing for transit needs to be addressed in the EIR if it is to be considered a realistic mitigation. Another approach should call for strong pedestrian and bicycle facilities.

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- LU-14: This impact identifies potential land use impacts and recommends implementation of the Cowell Ranch P-1 Planned District Development Standards. The word "Strengthen" should be substituted for the word "Implement" in the mitigation measure. We believe these P-1 Development Standards are currently inadequate to either describe or control development in a manner that would result in the Village Centers that would be real focal points for those communities and go beyond typical commercial developments surrounded by residential units. Given the fact that the applicant may very well not be involved in the final design of the Village Centers and that several developers may be involved, there is a strong need to have a clearer image and statement of the intended final character and environment of the Village Centers. Suggested amendments to the Cowell Ranch P-1 District Development Standards book are attached to this letter as Attachment 1.

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Agriculture

- The analysis of impacts on agricultural land on p. IV.B-11 refers to the Contra Costa General Plan in some detail and only briefly mentions the Brentwood General Plan at B-16. Here again, it would be appropriate for the DEIR to mention that the Brentwood GPEIR already analyzed the impacts of loss of agricultural lands.
- AG-1 discusses loss of onsite prime agricultural lands. The only mitigation mentioned is redesign of the project to avoid such lands. Policy 1.1.4 of the Brentwood GP, Conservation/Open Space Element calls for establishment of a program which secures permanent agriculture on lands **designated for agriculture** in the City and/or County General Plan. In this light, a mitigation measure of potentially greater community-wide benefit would be for the applicant to participate in the establishment of a program for permanent preservation of prime agricultural core lands designated on the City GP, to offset the loss of viable agricultural lands not designated for preservation by the GP, such as the land within Cowell. Such participation could include funding for and/or establishment of an agricultural land conservation trust, purchase of conservation easements, or other methods, to

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be specifically determined through the Development Agreement between Cowell and the City/County. This program could set a standard for City-wide mitigation and conservation.

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- AG-5, Precedent Setting Impacts on Adjacent Agricultural Uses; claims that the project will have precedent setting impacts on agriculture. The City believes that this is too speculative for the EIR analysis. No applications have been filed for development on neighboring agricultural lands. The property was slated for growth in the area anticipated by the Brentwood GPEIR since the land is part of SPA J, and the cumulative impacts were analyzed in that EIR. CEQA Guidelines indicate that some impacts may be too speculative to determine (Guidelines Sec. 15145). In the 1988 Laurel Heights case, the court noted that where future development is unspecified or uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences.

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Transportation

- The 1993 traffic counts used in the DEIR should be updated and reanalyzed in the Final EIR.
- Mitigation T-1 speaks to significant unavoidable impacts resulting on Highway 4 between Railroad Avenue and the Highway 4 Bypass by the year 2026, and on Vasco Road starting in the year 2010, even with implementation of the recommended mitigations. No further mitigations are offered to reduce these significant unavoidable impacts. In a similar vein, the Alternatives to the Proposed Project section of the DEIR, commencing on page V—9, offers a Mitigated Alternative (C) which relocates or eliminates between 0 and 730 dwelling units in areas Planning Areas 31, 32, 52, and 61. These areas are targeted for elimination or relocation of units to reduce impacts on open space, agricultural lands, wetlands, hillsides and knolls. However, this or another mitigated alternative should also address the significant unavoidable traffic impacts described in T-1. One method would be to analyze the effects on traffic of reducing units. For instance, unit reductions in 500 unit increments could be done, and resulting traffic impacts measured until the significant impacts were reduced to more acceptable levels. The resulting reduced project would become the focus of the mitigated alternative, and at that point, the eliminated units could be targeted to be removed from the most environmentally sensitive portions of the project site. Supported by the above mentioned analysis, this alternative then might become the most realistic opportunity for an acceptable project.

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The EIR needs to clarify that construction of the proposed SR 4 Bypass is required to accommodate project traffic at acceptable levels. This may entail coordinating phasing of Bypass improvements to buildout of the Cowell project to offset impacts on local streets.

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- Page IV.C-12, section F. 4: It is questioned whether traffic conditions along SR-4 west of Lone Tree operated at "acceptable" conditions (LOS E) in the AM and PM peak hours, in 1993, when the data was obtained.

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- Table 14: This table describes average conditions for signalized intersections. The descriptions for the various LOS conditions as applied to existing intersections (Table 17) should be cross-checked against actual field conditions. 78.28
- Table 17: This table describes existing AM and PM LOS for nine intersections. Based on the City's experience, local LOS varies from this table and current conditions may be more congested than represented on the table based on recent area-wide growth. The analysis on this table should be re-evaluated using more recent traffic counts. 78.29
- Table 18: The table describing existing traffic flow should include a column showing approximate vehicular speed. 78.30
- Page IV.C-19: Accident rate information should be calculated and compared against statewide averages and any deficiencies noted. The types and severity of accidents would be helpful in determining if the proposed improvements will improve safety and reduce accident rates. 78.31
- Analysis and Methodology Scenarios (p. IV.C-32-33): If the worst case methodology for the year 2010 scenario assumes full project buildout by 2026, how representative is this, if local job creation and improved circulation is anticipated for the project in 2026? In some cases, this may actually be the best case scenario. 78.32
- Analysis and Methodology Scenarios (p. IV.C-34-35): How many persons per household are assumed? Adding year 2026 Brentwood population from Table 20 to proposed Cowell Ranch project assumptions for that same year does not reflect Brentwood's higher General Plan buildout population figures. This difference in population estimates needs to be reconciled in the DEIR. 78.33

How are career-level jobs in industrial cities such as Pittsburg related to overall jobs in terms of jobs/housing? It is conceivable that several family members could be employed in minimum wage jobs, while the breadwinner commutes out of town, thus skewing the ratios.
- Impacts, p. IV.C-49 and 50: Why would traffic decrease on Vasco Rd. south of Camino Diablo during the PM peak from year 2010 to 2026 without the project? 78.34

Why would northbound traffic on the SR-4 Bypass decrease in volume during the AM peak in year 2026 between the "no project" and "with project" scenarios, when southbound traffic increases? 78.35
- Mitigation T-1: Since a future transit median is being reserved in the SR-4 Bypass corridor, a mitigation measure to include interim HOV and/or HOT lanes in these medians should be considered until public transit facilities can be funded and/or built. 78.36

The mitigation measure references a "fair share" funding towards road improvements, however, there is no discussion as to how a "fair share" will be calculated. Will it be project traffic volumes compared with total facility volume?

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- Mitigation T-2 references a second grade separated crossing of the proposed SR 4 Bypass between Balfour and Marsh Creek Roads. Fairview Avenue is already determined to be grade separated, will align with Cowell's entry street and creates a mid-point connection. The second grade separated crossing would refer to the Briones Valley Connection over/under the Bypass that was once a part of the Cowell Plan and the "Back Nine at Brentwood Country Club" project. This was eliminated in Blackhawk's EIR, General Plan Amendment, Rezoning and Tentative Map design to accommodate the Cowell Circulation Plan. This held up Blackhawk for sometime and required extensive redesign of their project. There does not appear to be capacity to create another grade separated crossing over the Bypass between the redesigned Fairview and Balfour as there is no provision to accept Cowell traffic on the Blackhawk property except at Fairview. The Briones Valley Road connection was eliminated through the planning process. It was evaluated as a part of Blackhawk's EIR. The alignment of the Bypass, primarily on the Blackhawk property, in conjunction with the realignment of Fairview with a Cowell entry, and the elimination of the Briones Valley connection into the Blackhawk property by way of a grade separated crossing of the Bypass, was the chosen EIR alternative. This design is currently being implemented through the Tentative Subdivision process. At this time consideration of Briones Valley Road as a public east-west arterial from Concord Avenue/Bypass to Deer Valley Road, including limited access directly from the North Village to Briones Valley Road may be worthwhile. However, this portion of the Cowell EIR also needs to address the roadway alignments that have been determined through the planning process as they effect Cowell and as they exist on properties further along in the development process.

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Mitigation Measure T-2 also mentions SPA I. The boundary of SPA K has been amended to include all of the Blackhawk property in SPA I and to reconfigure SPA K to include properties still outside of Brentwood's boundaries but within the sphere of influence, and maintained in agricultural uses. Therefore, interim and long-term vehicular connections to SPA K should be addressed.

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- T-3, does the DEIR consider use of Briones Valley Road as an east-west corridor from Concord Avenue/SR-4 Bypass to Deer Valley Road, including limited access directly from the North Village to Briones Valley Road?

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The City of Brentwood recommends that Marsh Creek Road be closed as part of initial project construction, not as part of Phase II, to minimize traffic impacts on the City of Clayton.

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- The mitigation for Impact T-4 is to cul-de-sac Fairview Avenue prior to the SR-4 Bypass and to cul-de-sac Concord Avenue east of the Bypass. The City has approved or is considering a circulation system which differs from this assumption. Fairview has been determined to be the prime access from Brentwood to Cowell as stated above. This circulation pattern has

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been set. A General Plan Amendment has been approved to eliminate the Payne Avenue connection across Marsh Creek thereby limiting the amount of traffic emanating from the developed area into the Agricultural Core. Concord Ave. is currently a through road that will be needed to handle the traffic from Blackhawk and conditions of approval have been applied to the Tentative Map requiring some connection from the extension of Fairview to Concord Ave. east of the Blackhawk project to facilitate movements of the Blackhawk residents and people living east of Blackhawk. It is understood that Concord Ave. traveling south through the Spanos project and into Cowell Ranch will no longer be able to be connected to the east portion traversing the Agricultural Core. Initially, prior to the development of either Cowell Ranch or the Bypass, this will allow for the residents of Blackhawk and the residents living along Concord Ave. to the east to have through access. Ultimately, connecting Concord Ave. east of the Blackhawk project as either a full "T" intersection with Fairview or as a right in/out only will provide a safe necessary circulation pattern and will serve to reduce the traffic entering the Agricultural Core. Mitigation T-4 should speak to the existing circulation plans approved by the City of Brentwood.

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- T-10 and 11: The design of Cowell Parkway needs to be strengthened as both a circulation and urban design element. Specifically on T-10, the parkway needs to be wider between the curb and edge of right-of-way. This will allow a strong landscaped area for wide bike and pedestrian paths which will encourage non-auto circulation to Village Centers. Since the overall project will be built out by a variety of developers, the Parkway will serve as the major unifying element for the project. From an urban design standpoint, it needs to be a very strong feature linking all segments of the project. In addition, a wide landscaped edge to the Parkway would provide flexibility to treat its edges in a manner which is supportive of a semi-rural character which might address some of the issues in the Visual Factors section.

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To help alleviate pedestrian and bike circulation impacts, it would be prudent to work with the CCWD to utilize the Los Vaqueros pipeline right-of-way as a pedestrian/bike route easement.

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- We are concerned with Vasco Road capacity being inadequate related to additional traffic added by Cowell, and believe that adequate mitigation measures have not been provided in the DEIR.
- The East Contra County Airport, mentioned on page IV.A-19, offers a great opportunity in the future to provide air service to this region and could provide "executive" air service in support of the proposed Business Park. This should be identified in the EIR.
- It appears that development is going to continue in other areas of east Contra Costa County, northeast Alameda County (Livermore/Pleasanton) and west San Joaquin County (Tracy/Stockton). Thus, the Cowell Ranch project, in conjunction with transportation improvements, offers a good opportunity for this region to meet the County's future needs for additional housing and regionally diversified commerce. The Cowell Ranch proposal is ideally situated to provide new employment centers for the east county as projected by ABAG. Regional transportation improvements are needed and this project will facilitate the

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development of the SR4 Bypass, providing a direct link from existing SR 4 to Vasco Road. With the Bypass installed, at some time in the future reconsideration for the construction of a new transportation link in a southeasterly direction from east Contra Costa County to Interstate 580/205, such as Route 239, the Byron Highway, which parallels current J-4 from Brentwood to Tracy, can further enhance the community's, and County's growth in economic development.

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Drainage & Public Facilities and Services

- Park provision is a requirement of State and local law for new residential development. Generally the Parks and Recreation information in the DEIR appears consistent with City policy on a macro scale. However, the DEIR does not discuss maintenance funding for the proposed parks to be built within Cowell Ranch as part of the project. This has the potential to result in a significant impact, as park maintenance funding mechanisms do not currently exist. Therefore, such funding needs to be identified in the EIR, to ensure that the proposed parks can be built and maintained to be consistent with State and local law.
- Existing Conditions, Page IV.F-10: City of Brentwood water well pumping capacity listed on this page does not appear consistent with City records.
- Existing Conditions, Page IV.F-11 Third Paragraph: *Update this paragraph by inserting: "A Phase III report was adopted by the governing board members of ECWMA on November 22, 1996. The long term water supply treatment options in the report require the City of Brentwood to institute one of those options."*
- Impacts and Mitigations D-2, D-3, D-4, PF-3 and PF-5: If the proposed project is annexed into the City of Brentwood, all of the City's Infrastructure Master Plans will need to be amended to account for the type and intensity of development represented by the project. All costs for amending the various Master Plans shall be borne by the Cowell Ranch developer(s).
- PF-1, Treated Water Supply: The associated mitigation measure should cross out all of the wording in the measure from the word "or."
- PF-3, Conveyance and Distribution Facilities: Mitigation PF-3 should be reworded as follows: "For each future individual development component of the overall project, project applicants shall submit detailed studies and water system improvement plans to the City of Brentwood for approval."
- PF-5, Wastewater System Impacts: Mitigation PF-5 should be reworded as follows: "For each future individual development component of the overall project, project applicants shall submit detailed studies and wastewater system improvement plans to the City of Brentwood for approval."

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The City of Brentwood has required the developer of the Garin Ranch project to oversize the design and construction of a major sewer main to accommodate a portion of the wastewater collection system for the proposed project. This mitigation measure should be expanded to require that the developer(s) of the Cowell property reimburse the Garin Ranch developer for the oversizing of the sewer line.

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- PF-6, Wastewater Treatment capacity: Edit the following: "or, (b) the project sponsor shall provide on-site treatment and disposal which would require the approval of the State regional water Quality Control Board."

78.56

- The entire section of IV.F-96 (d) dealing with solid waste needs to be revised. If the City of Brentwood is to provide water and wastewater services as outlined in the adopted Phase II water study and completed wastewater alternatives report, only the City of Brentwood should provide solid waste collection services.

78.57

- Page IV.F-99, Road Maintenance: a. Setting: Add the following: The City of Brentwood standard for street cleaning is to clean all streets once a week and respond to street repair requirements within 24 hours, provide street striping once a year and provide regulatory street sign maintenance within 48 hours.

78.58

- PF-8, Brentwood Police Department Impacts: The Brentwood Police Department disagrees with the statement in the DEIR that a 5-minute response time could be met in the initial years of the project. This assumes that a low project population would translate to a low number of calls for service. Police Department experience is that calls for service commence immediately upon construction, including but not limited to construction material theft, vandalism and similar incidents. A mitigation measure should be included to require retention of a private security service during construction phases to minimize impacts to the Brentwood Police Department.

78.59

As a related item, Mitigation PF-8 should be strengthened to require future project developers to finance the costs of providing adequate equipment to patrol the project area, including but not limited to, an all-terrain vehicle, an all-terrain motorcycle, and water rescue equipment including personal gear for officers. In addition, this mitigation must include a requirement for an on-site police station. The rationale for this requirement is as follows:

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- Reactive response times to crimes would be significantly reduced by having an on-site satellite station;
- Community oriented policing is a philosophy held in high esteem by the Brentwood Police Department and the Department will continue to operate under this philosophy;
- Crime prevention is an important function of the Police Department and high visibility in the community would be fostered by a satellite office.

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The EIR needs to discuss the eventuality of development of the project within the unincorporated portion of Contra Costa County without annexation to Brentwood. Under this scenario, police protection would remain with the County Sheriff's Office which has a

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traditionally low officer to population ratio, so that a large number of calls for service would be transferred to the Brentwood Police Department.

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As a related item, Mitigation PF-8 should be expanded to allow for review and approval of the Police Public Services and Facilities Plan by the City of Brentwood, if the site is annexed to the City.

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- PF-9, Emergency Access: The associated mitigation measure (Mitigation PF-9) should be expanded to include language to ensure that all future development projects comply with City standards of emergency access, including Knox lock boxes and appropriately designed curb cuts for emergency access.

78.64

- Page IV. F—52: First full paragraph, last sentence, strike reference to the Byron and Oakley fire districts. Second paragraph, second to last sentence, change to read: "Engine Company 52 is a paid on-call personnel station." Last sentence, change "... one fire engine..." to "... two fire engines..."

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- PF-11, Fire Protection and EMS Response Impacts: The Public Services and Facilities Plan required as a part of Mitigation PF-11 should include a discussion of the entity which will be responsible for maintenance of fire buffers and fire breaks and how the maintenance function will be financed.

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- PF-13, Marsh Creek Road Closure: The EIR should specify the entity responsible for maintaining such emergency access and the funding source for such maintenance.

78.68

- PF-15, Community Park Impacts: Since the Community Park is proposed between the North Village Center and the Highway 4 Bypass, and road and bike access to the park is not very easy, its presence as a Community Park would not seem very apparent as one moves through the project.

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It is hard to tell whether the link between the east portion of the park next to the bypass and the west portion near Cowell Parkway would be adequate to tie the residences on PA #23 and Marsh Creek.

The fact that the proposed Community Park site has overhead electrical transmission lines is not addressed here or in the Visual Factors section of the DEIR.

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- Pages IV.F—67 and 68 note that "...the project would generally meet the County and City park requirement that parks be located within a one-half mile radius of all proposed residential areas; the exceptions are the Golf Course Residential subarea and the westernmost portions of the North Hills and East Hills subareas, where residential development may be further than one-half mile from proposed parks. These areas are located immediately adjacent to the proposed golf course and/or designated open space areas, however; therefore, the greater traveling distance to on-site parks would not be expected to present a significant problem for these residents..."

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The existence of adjacent open space would not necessarily take the place of neighborhood parks, where that open space is expected to be retained in a natural state, or as a golf course, which would be less conducive to children's play areas and other activities normally associated with neighborhood parks. As partial mitigation to the identified lack of neighborhood parks in specific areas, it is recommended that bicycle and pedestrian pathways connect underserved neighborhoods to the proposed neighborhood parks.

78.71

- PF-21: the High School District was to evaluate a site around PA #10 as a potential High School site. The DEIR touches on this briefly in Impact PF-21. However, the discussion is not very much in depth. Perhaps this should be reconciled with the High School District, and addressed in the Land Use section.

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- In light of the significant infrastructure requirements of this proposal, we suggest that financing mechanisms be considered in the Cowell EIR to enable mitigations which call for infrastructure improvements. Existing legislation identified as Chapter 1575 of the Statutes of 1990 added as Chapter 2.8 (commencing with section 53395) to Part 1 of Division 2 of Title 5 of the Government Code, entitled "Infrastructure Financing Districts" may be an alternative financing tool worth considering. This financing tool is similar to redevelopment financing, however appears to be specifically targeted to large vacant properties, and uses a portion of increased property value revenues to fund specific infrastructure improvements. The legislation requires participation from affected taxing agencies. In obtaining concurrence from various taxing agencies, it appears that the argument could be made that without this fiscal participation early in the development of certain transportation improvements (i.e. SR4 by-pass), as well as other required public infrastructure (schools, utilities etc.), the Cowell Ranch project may not be able to attract business and industrial users to the Business Park, which is an essential element to the success and feasibility of the project. Business attraction to this project site will only be facilitated by appropriate infrastructure, including regional transportation. This funding source may be a way in which Cowell, and future developer(s), the City and the County (including other taxing agencies, which will financially benefit from the development of this project), all participate in financing the construction of this essential transportation link so that the jobs can be attracted to the employment centers throughout the east County region.

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Mineral Resources

- The DEIR states that a portion of the project site was mined from the 1920's through the 1940's and that reclamation of the mining site is necessary. One of the reclamation options cited would involve additional mining. The DEIR should briefly address potential impacts of future mining operations that can be logically inferred, such as dust creation, truck traffic, noise, etc.

78.74

Visual Factors

- The computer-generated maps and photos included in the DEIR are not useful in evaluating potential visual impacts of the project, nor in suggesting potential mitigation measures or in evaluating the effects of mitigation. In addition, the photos included in the DEIR are out-of-date, based on new construction within Brentwood, and approved but not yet built projects, which might affect views of the proposed Cowell development, from other sites. As a result, the conclusion drawn in the DEIR of significant unavoidable impacts does not appear supportable. We believe that it is necessary that the visual analysis be redone using readily available visual simulation analysis. For example, after viewsheds are agreed upon, up to date photos are taken from points which would commonly be viewed by the public. The photos are then enhanced to show any offsite pending development which might be in view, as well as the proposed Cowell development, including approved or assumed landscaping at some maturity point. These images are enhanced or simulated using approved site and elevation plans in the case of pending projects; and building envelopes at commonly assumed locations and size, bulk and scale for the Cowell proposal. This tool offers a very accurate, easily understandable analysis of potential impacts. The simulations can also be manipulated to incorporate mitigation measures, if necessary, such as changing the location, size, bulk or scale of proposed structures, and/or adding visual screening. This level of analysis needs to be done for both offsite and onsite views, so that decisionmakers and the public can determine the potential for impacts and the need for, and effectiveness of mitigation.

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Also, the DEIR does not address the potential visual impacts of future noise barrier walls which will likely be required along the edges of the Cowell Parkway where residential uses are adjacent. Special treatment or greater setbacks would be appropriate mitigation measures to consider.

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- V-1, East County and Local Landscape: Mitigation measures should be modified to require special landscape buffers which will assist in retaining a flavor of the rural and semi-rural landscape. This has been accomplished in planning new development projects in the Tassajara Valley and in Napa County (e.g., vineyard plantings as landscaping between buildings and roadways).
- V-7, Views from SR-4 Bypass: It is unclear if the analysis deals with the height of the Bypass assuming an at-grade, depressed or elevated facility. This should be clarified.

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A significant omission from the visual analysis is an analysis of the overpass structures themselves. Mitigation measures may be needed based on the results of the analysis, and could impact net site areas (e.g., PA #46).

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- V-10, Visual Impact on Creeks: The mitigation attached to this impact requires preparation of special landscape guidelines for creek corridors. The City of Brentwood with concurrence from the East Bay Regional Parks District and Contra Costa County Flood Control and Water Conservation District, has adopted a Creeks Trails and Revegetation Master Plan. Use of the standards and criteria within this approved document will assist in providing uniform

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treatment and protection for all creeks within and adjacent to Brentwood. Therefore, this document should be referenced in the EIR.

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- The impacts addressed in the Visual section generally speak about the irrevocable loss of the rural character of the area following development, but does not offer any real mitigation to deal with the issue. Appropriate mitigation would include additional planning and design guidelines within the Cowell Ranch P-1 District Development Standards to include the following in order to maintain some of the rural qualities of the site following development:

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1. Increased setbacks between the edge of roadways and adjacent development areas.
2. Open space landscape treatments in road rights of way such as the Cowell Parkway.
3. Orchard type landscaping at key points along roadways.
4. Fencing along public roads (e.g., open rail fences).
5. Entry treatments to the project in general and to the individual neighborhoods.

Noise

- N-1, Roadway Traffic Noise: The project sponsor should commit to mitigating their fair share of roadway noise on adjacent lands attributable to the proposed project adjacent to the Delta Expressway, Concord and Orchard Lane.

78.82

- N-4, PG&E Compressor Noise: Proposed mitigations for this existing facility in the DEIR are inconsistent with and less stringent than other mitigations included in the EIR for the Blackhawk Back Nine project. Mitigations included in the Blackhawk EIR should be reviewed and, as appropriate, included in the Cowell Ranch EIR to assure consistency.

78.83

- N-13, Cumulative Noise: This item discusses a significant unavoidable cumulative traffic related noise impact along Concord Avenue, Camino Diablo and Walnut Blvd. since the mitigation concludes that no feasible mitigation exists for cumulative noise increases that would be experienced by existing residences in this vicinity. We suggest the EIR explore measures such as adding noise insulation to existing homes, soundwalls and/or berms, in coordination with the noise mitigation measures in the Hwy. 4 Bypass EIR. Cowell should contribute their fair share toward these noise mitigations.

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Biological Resources

- As noted in the DEIR, the project could represent a potentially significant environmental impact upon many of the site's biological resources. Proposed mitigation for these impacts is deferred to a certain extent to a Draft Habitat Management Plan (DHMP) drafted by the project sponsor. Based on our review of the DHMP, we believe it is well written and organized. Both it and the Biological Resources section of the DEIR appear to cross reference each other adequately and appropriately. The Biological Resources section of the DEIR relies considerably on the recommendation and management plan outlined in the DHMP. Given the broad range of resources identified on the site and the project's potentially significant impact upon those resources, it seems appropriate in this instance to include the

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DHMP in the DEIR's technical appendices. Further, while still in draft form, the DHMP's full range of mitigation should be addressed in the DEIR to provide for full disclosure as required by CEQA of all potential effects of the project. In so doing, the net effects of the DHMP should be fully integrated into the EIR, and the Mitigated Alternative revised to ensure that all onsite mitigation is represented.

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Alternatives

The Alternatives section does not contain as many alternatives as the magnitude of this project would warrant. The project is proposed to consist of residential, commercial, employment, open space, recreational and public facility development. Yet, there is only one mitigated alternative (C) which reflects a scaled-back version of the project. Under CEQA Guidelines Section 15126(d)(3), there must be a reasonable range of alternatives analyzed, focusing on those which offer an environmentally superior approach (see also *Citizens of Goleta Valley v. Board of Supervisors* (1990)). Alternative F, the originally proposed project, does not meet this criteria since it increases impacts across the board.

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The following comments relate to Mitigated Alternative C:

- Alternative C offers a good start toward a mitigated alternative, but fails to address significant unavoidable impacts to transportation and other impact categories. Therefore, the proposed reduction of development identified in the Mitigated Alternative does not appear to go far enough to actually provide significant mitigation. As mentioned under our comments on transportation above, this or another mitigated alternative should address the significant unavoidable traffic impacts described in T-1. One method would be to analyze the effects on traffic of reducing units. For instance, unit reductions in 500 unit increments could be done, and resulting traffic impacts measured until the significant impacts were reduced to more acceptable levels. The resulting reduced project would become the focus of the alternative, and at that point, the eliminated units could be targeted to be removed from the most environmentally sensitive portions of the project site. Supported by the above mentioned analysis, this mitigated alternative then might become the most realistic opportunity for an acceptable project.
- Given the wetlands in PA's 31 and 32, and the potential visual impacts of development in these areas, reduction or elimination of development in these two areas should be considered. This would also reduce conflicts between development and the potential kit fox habitat preserve.
- Good engineering practices which call for avoidance of sewage booster pumps could suggest the elimination of PA's 1, 2, 3, 30, 31 and 32. This would eliminate 1222 units when combined with the elimination of PA 61 which is part of the Mitigated Alternative. This would result in a 23% reduction in the number of units compared to the proposed project. This appears to be a realistic alternative to be evaluated in the EIR.

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- The Alternatives do not address modifications to the location of the Village centers. While the proposed plan shows these centers being close to major traffic routes, and surrounded by some residential uses, both the East and North Villages are located more at the edges of the overall project and the bulk of residential uses. An alternative design, placing the Villages in the center of residential development, surrounded by rings of residential density which decrease further from the center, might be better suited to encourage more local pedestrian and bike trips, and add to the utility of the Villages as true community centers. This appears to be a feasible alternative for analysis in the EIR.

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- Because there are few mitigable visual impacts - most are classed as significant and unavoidable, the Mitigated Alternative does little to address this impact area. Additional mitigations could be included in the form of larger setbacks, special landscaping and other elements to reduce potential visual impacts, and link the project to the semi-rural character of the surrounding area.

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Cumulative Impacts

The cumulative impact analysis is one paragraph long and merely references the discussions in Section IV (which constitutes the bulk of the DEIR) without any direct references. The DEIR selects the "list of projects" approach authorized under CEQA Guidelines Section 15130(b)(1)(A), but because of its general reference, one cannot easily discern to what degree the proposed project will make some significant cumulative contribution and to what significant impacts. Further, it does not include a discussion of mitigation measures as required by Section 15130 (b)(3). Tables 9 and 10, which are cited in the Cumulative Impact Section of the DEIR as being used to incorporate reasonably foreseeable projects, date back as far as April 1996. Both Tables need updating.

78.92

Mitigation Monitoring Program

- This Section of the DEIR references that mitigation responsibility will accrue to local and state agencies as generally outlined in the Summary of Impacts and Mitigation Measures in Section II of the DEIR. Review of those mitigation responsibilities suggests that many will be beyond the immediate control or jurisdiction of either the project sponsor or Contra Costa County. This raises some questions as to the ability of the County as the agency to certify the Final EIR for the proposed project to ensure that in fact all mitigation will be implemented. Among the agencies presumed to be beyond the County's direct control or authority are the City of Brentwood, various water and irrigation districts, and a number of state agencies. If mitigation will be the responsibility of agencies beyond the County and/or project sponsor, then perhaps the EIR needs to come up with a way of obtaining a cooperative mitigation monitoring effort among the responsible agencies. In lieu of such an arrangement, it might be prudent to include in the EIR a determination of impact where mitigation implementation cannot be assured.

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Thank you again for the opportunity to review and comment on this major project of substantial significance to both the County and the City. We look forward to continuing to work with you

James Cutler

02/25/97

Page 21

and your staff on this project. Should you have any questions on our comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mitch Oshinsky". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Mitch Oshinsky

Community Development Director

Attachment: Cowell Ranch Additional DEIR Comments on P-1 District Development
Standards, December 4, 1996

cc: Mayor and Councilmembers
Planning Commission
Jay Corey, City Manager
Natalie West, City Attorney
Louise Rice Lawson, Cowell Ranch

COWELL RANCH ADDITIONAL DEIR COMMENTS

Larry L. Cannon
December 4, 1996

LAND USE

Issue

Impact LU-14: Residential vs. Commercial Uses (page IV.A-64) identifies potential land use conflicts. Mitigation LU-14 (same page) calls for the implementation of the *Cowell Ranch P-1 Planned District Development Standards* and addresses some additional design criteria in the discussion section following the mitigation measure.

However, the P-1 Planned District Development Standards need additional material as well. They are currently inadequate to insure the type of development within the Village Centers expected by the City of Brentwood. Development following the currently proposed standards could result just as easily in only a combination of current suburban development types rather than the unique focal point centers which have been verbally suggested. Given the fact that the Applicant may very well not be involved in the final design of the Village Centers and that several developers may be involved, there is a strong need to have a clearer image and statement of the intended final character and environment of the Village Centers. The following should be incorporated into the *Cowell Ranch P-1 District Development Standards* for the Village Centers:

78.94

Planning Concept 2.1: Include expanded concept descriptions of the two Village Centers to include general types of retail and commercial uses anticipated, transportation connections to the residential and park areas, pedestrian orientation, building scale and character, anticipated parking treatments and other elements that will truly establish a unique sense of place and the feeling of a unified neighborhood. As necessary, describe the differences between the two Village Centers, recognizing that the North Village Center is rather far in the future and there can be less certainty as to its form and character.

Development/Design

East Village Standards 4.2: 1. Discussion of building form, character and unit size (i.e., avoidance of large, non-village scale buildings).
2. Discussion of anticipated allowable roof forms (e.g., pitched roof forms versus flat roofs).
3. Facades facing the Village Greens.
4. Vertical mixed uses - where, when, allowed, required or encouraged.

5. Street and walkways hierarchy, widths, character, curb cut limitations and landscaping.
6. Height variance allowance for towers or other architectural feature elements.
7. Building orientation relative to frontage streets and parking areas.
8. Permitted and Conditional uses.
9. Special development and design standards for residential parcels within the Village Center (i.e., PAs 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, and 53).

78.94

CONTRA COSTA

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COMMUNITY
DEVELOPMENT DEPT

February 25, 1997

Mr. Harvey E. Bragdon
Director of Community Development
CONTRA COSTA COUNTY
Community Development Department
651 Pine Street, North Wing - Fourth Floor
Martinez, CA 94553

Re: Comments on the Cowell Ranch Draft EIR

Dear Mr. Bragdon:

There has been considerable debate during the past three year period concerning the Highway 4 bypass routing south of the intersection of Briones Valley Road and Concord Avenue as it extends through the proposed Cowell Ranch Development.

A group of concerned property owners in this vicinity, including myself, fervently supported the Nunn Mitigated Alignment which was routed west of the PG&E compressor station. Our support of this alignment was based upon sound and visual impacts which were substantially less than those which would result from the alternative mitigated Project Alignment. Louise Wright Lawson, representing the Cowell Foundation, approached our group during the first quarter of 1996 and, in the spirit of compromise, offered us a spectrum of mitigations which would substantially alleviate the severity of the sound and visual impacts of the Mitigated Project Alignment. These included buffering the Mitigated Project Alignment with an earthen berm and the planting and maintenance of dense shrubbery and trees along this segment of the bypass. George Szabo, a Cowell Foundation land planning consultant, prepared several renderings to demonstrate Cowell's proposal. Ms. Lawson indicated that Cowell would provide these mitigations if we were willing to withdraw our objections to the Mitigated Project Alignment.

The draft EIR fails to address the aforementioned mitigations in any way. The future quality of life for my family and neighboring property owners will be adversely impacted unless appropriate sound and visual mitigations are integrated as conditions of the final EIR.

Very truly yours,



Marshall M. Snover
2209 Concord Avenue
Brentwood, CA 94513

MMS(libra225)/jc

79.01



SAN JOAQUIN COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT

CONTRA COSTA

1810 E. HAZELTON AVE., STOCKTON, CA 95205-6232
PHONE: 209/468-3121 Fax: 209/468-3163

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COMMUNITY
DEVELOPMENT DEPT

February 25, 1997

James Cutler,
Assistant Director of Comprehensive Planning
Contra Costa County Community Development Department
County Administration Bldg
651 Pine Street, 4th Floor, North Wing
Martinez, CA 94553-0095

**Re: Comments on Draft EIR for Cowell Ranch General Plan Amendment
Rezoning**

Dear Mr. Cutler:

Thank you for the opportunity to comment on the Draft EIR for the Cowell Ranch project. Similar to the concerns expressed by Contra Costa County when the Mountain House project was going through the public review process, this letter focuses on the jobs/housing balance, affordable housing, and transportation provisions and their corresponding impact to San Joaquin County.

San Joaquin County has been interested in this project for some time since earlier reports described it as similar to the proposed new community of Mountain House. However, the proposal described in this EIR appears to qualify more as a major expansion to the City of Brentwood, rather than as a "stand alone" project. This is evidenced by the two part impact analysis that has been performed in the Draft EIR - one analysis if built under County jurisdiction, another analysis if built under City jurisdiction. Although this appears to be a more comprehensive strategy at first review, it is of questionable value in light of the very general project description that is being assessed.

Type of EIR/Approval Process/Planning Documents

It is not clear what specific planning and environmental documents the County (and the City) will require the developer to prepare after this initial General Plan Amendment approval. It appears that a Master Plan or a first phase Specific Plan should be included if this EIR is to adequately function as a Master EIR. The DEIR states "the purpose of this Master EIR is to assess the potential environmental impacts of all aspects of the proposed entitlements." Can this document include this at the required level of detail when much of the basic infrastructure issues (e.g., water supply, sewer disposal, expressway access) have not yet been specifically identified and proposed, and thus not analyzed?

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As Contra Costa County is aware, the review of the Mountain House new community confronted these service issues. However, we did not request General Plan Amendment approval, nor later zoning and specific plan approval without a firm identified source of potable water and a detailed wastewater treatment plan in hand at the time of EIR preparation.

This "general" planning approach is illustrated in the figure on page III-47 which identifies a Preliminary Development Plan, but lacks text and detail. Does this constitute the primary planning document? Where are the planning policies to guide future decisions and approvals by the County and/or City? The dated and broad "Principles and Guidelines for Cowell Ranch General Plan Amendment Study" are not detailed enough to qualify under the Master EIR definition.

80.01

Jobs/Housing Balance and Affordable Housing

I am especially concerned that no economic (i.e., jobs/housing) program has been prepared that describes how job creation will be accomplished and measured. The mitigation measure in the DEIR is general and lacks effective/measurable provisions. The "quotas" described are not defined - thus any measure of compliance could be deemed adequate in the future. Contra Costa County expressed similar concerns with our initial attempt at creating a jobs/housing program for Mountain House.

The same problem is evident in the mitigation proposed to ensure an adequate percentage of affordable housing. The proposed "Project Housing Strategy" and "Housing Mix and Affordability Monitoring Program" do not include provisions that are measurable or enforceable. Again the DEIR states that the strategy "incorporate measures that encourage provision of housing . ." and "include the following components", but does not evaluate a specific program. How can the DEIR conclude that these yet to be prepared programs would adequately address the need to provide affordable housing and reduce the impact to a less than significant level?

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These issues are of considerable concern to San Joaquin County, for the same reason that they were of interest to your County when Mountain House was under review: they can significantly compound the severe regional transportation impacts even further if not mitigated effectively.

Transportation

By reference, I would like to concur with the comments of Alameda County (November 27, 1996) in regard to potential impacts to regional roadways, especially their comment that "current trends in

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employment and travel in the East County and Tri-Valley areas of both Contra Costa and Alameda Counties disregard jurisdictional boundaries and show an increasing interdependence of these counties with San Joaquin County and Santa Clara County." Although San Joaquin County is not within the ABAG planning area, we are, nevertheless, significantly impacted by its transportation trends and decisions.

Consistent with Alameda County's concerns, we would like to see additional analysis and specific mitigation for the project's transportation impacts to key arterials that enter Alameda and San Joaquin Counties, such as Vasco Road, Byron Highway, and State Route 4. The DEIR analysis also fails to adequately document how project impacts to I-580 could be mitigated to a less-than-significant level.

The Transportation section of the DEIR contains only a single impact and mitigation measure addressing the project's impacts on the regional (three-county) transportation network. This mitigation measure ignores the need to coordinate with other agencies that have jurisdiction over roads that will be directly affected by the project traffic, including Alameda and San Joaquin Counties, and Caltrans, Districts 4 and 10. The measure refers only to the requirements that "the applicant shall demonstrate to County satisfaction that a specific combination of the following measures would occur that together would achieve compliance with the applicable roadway system performance standard . . ." The DEIR analysis and mitigation is narrow and misleading, when it ignores off-site impacts to nearby Caltrans facilities and County roads other than those under the jurisdiction of Contra Costa County.

For example, where T-1 identifies only two roadway segments where the project would create a significant unavoidable impacts: the existing four lane SR 4 in the Antioch area and Vasco Road; it should be expanded to indicate that the added project traffic would also create significant unavoidable impacts on SR 4 east of Discovery Bay in San Joaquin County, on Byron Highway in Alameda and San Joaquin Counties, and on I-580 in Alameda County. Similarly, Table 27 should be expanded to include the additional vehicles that could be assumed to be added to SR 4 just east of Discovery Bay into San Joaquin County (i.e., despite rumors to the contrary, the civilized world does not end at the Contra Costa/San Joaquin County line).

The mitigation proposed for the segment of SR 4 east of Bixler is not adequate where it states that documents suggesting the widening of the roads should be studied. Impacts of I-580 and Byron Highway are not mitigated because the addition of lanes "has been discussed" or recommended for further investigation as part of the

80.03

James Cutler
Page 4
February 25, 1997

Altamont Interregional Corridor Transportation Study. Similarly, impacts have not been mitigated on SR 4 near Discovery Bay in Contra Costa and San Joaquin Counties, since there is no identified funding by either County or Caltrans for lane widening.

Lastly, there should be some analysis to describe and quantify the relationship of trips that would occur between the Cowell Ranch and other large projects/communities in the Brentwood area, and Mountain House and North Livermore. Clearly, there will be an increasing relationship between residents and workers within the tri-county area, with some residents of Mountain House commuting to jobs in Brentwood or North Livermore, or residents of Cowell Ranch commuting to jobs in the planned business parks at Mountain House. The DEIR should more carefully analyze the future changes in commute and other trip patterns between the three growth areas.

8003

Please contact me at 209/468-3228 if you have any questions on the above comments. Thank you.

Sincerely,



Kitty Walker, Senior Planner
San Joaquin County Community Development Department

cc: Adolph Martinelli, Alameda County Community Development Agency
Mike McGrew, Chief Deputy County Counsel, San Joaquin County
Ron Gross, Trimark Communities

CONTRA COSTA

FEB. 26, 1997

97 FEB 26 PM 4:50

CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT
651 PINE ST.
MARTINEZ, CA.

COMMUNITY
DEVELOPMENT DEPT

I support THE COWELL RANCH PROJECT.

Why are the Environmentist and Green Belt-Alliance so concerned with a thoughtfully planned community ? After allowing CONTRA COSTA WATER to destroy the beautiful oak trees and to endanger the wildlife.

Nor has there been concern to the Quarries that operate south and east of both myself and the proposed Cowell Ranch Project. Quarries are not beautiful nor is the Race Track which is in the area. Cowell Ranch has a plan to not only create tree lined public green to each village, shops, offices, schools, and bussiness.

They plan on a natural environment, with (70%) of the 4,277 acre site to remain open space.

Brentwood has become the fastest growing community in Calif. With all the new houses being built, how many developers return (10%) proceeds back to the community ?

I moved here 21 years ago to be in the county, but let's face it when traffic lights came in the little town of BRENTWOOD, it was no longer country.

81.01

Sincerely,

Carol A. Davis

Carol A. Davis
3600 Vasco Rd.
Brentwood, Ca. 94513

K. J. & E. Scally
2211 Olympic Dr.
Martinez, CA. 94553

Feb. 26, 1997

Community Development
Contra Costa County

Gentlemen:

We would like to comment on the Cowell Ranch plan. Our first comment is that it was not well publicized. We were unaware of it until the last minute.

82.01

We implore you to heed the warning signs of the environmental report, and to keep the project from proceeding.

Our county has already suffered the loss of rural farmland and this would be adding insult to injury by making air pollution worse. Traffic is a major concern. Studies already show Bay Area traffic is worse in many ways than Los Angeles.

82.02

We would also be endangering the habitat for several federally endangered species.

Let's keep this county as a place we would like to say we are from - - - and not want to move away from.

Sincerely,

Karen & Ed Scally
Karen & Ed Scally

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COMMUNITY
DEVELOPMENT DEPT

CONTRA COSTA

CONTRA COSTA

97 MAR -5 PM 3: 10

COMMUNITY
DEVELOPMENT DEPT

Margarette Nail
3900 Sellers Ave.
Brentwood, CA 94513
March 4, 1997

Contra Costa Planning Department
651 Pine Street, North Wing, 4th. Floor
Martinez, CA 94553

TO WHOM IT MAY CONCERN,

My husband and I raised our family in the Brentwood area of East Contra Costa County. My husband's father farmed here. We gave the East Contra Costa Historical Society the old farmhouse that is now a museum with displays of local history.

Over the years I have watched with dismay as the sleepy rural towns changed to sprawling suburbs. I can remember a time when you didn't have to lock your house. Keys could be left in the car parked in your yard and when you walked down the street people greeted you by name. Animals such as possums, fox, and wild birds abounded in the fields and orchards and the air was clean and healthful.

I feel that the proposed "Cowell Ranch" project would be a death knell to the East Contra Costa area. People who moved to the area, did so because it was a quiet, rural place that seemed safe and peaceful. Now we have gangs, overcrowded schools, freeways that cannot handle the current commute, polluted air, and wild creatures that have to compete for space.

I am vehemently opposed to the Cowell Ranch proposal. I know that the area cannot remain as it was in my youth, but we are turning it into a Los Angeles ghetto with projects such as Cowell Ranch.

Sincerely,

Margarette Nail

Margarette Nail

83.01

LAW OFFICES OF
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A PROFESSIONAL CORPORATION

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PLEASE REPLY TO:

March 14, 1997

Hand Delivered

Mr. James W. Cutler
Contra Costa County
Community Development Department
651 Pine Street, Fourth Floor-North Wing
Martinez, CA 94533-0095

Danville

Re: Cowell Ranch Project - Comments on Draft EIR

Dear Mr. Cutler:

Please be advised that this office represents the S.H. Cowell Foundation with respect to the Cowell Ranch project analyzed in the Master Draft Environmental Impact Report dated October, 1996 ("Draft EIR"). This letter sets forth Cowell's comments on the Draft EIR.

As you know, Cowell revised the project to mitigate some of the impacts identified in the Draft EIR. These revisions were provided to you on February 19, 1997. For the benefit of all readers of the Draft EIR, we would like to identify the revisions. The project revisions are reflected on the following maps (attached as Exhibit "A") and are briefly discussed below. We are enclosing extra copies of these maps.

1. Proposed General Plan Amendment, dated January 15, 1997
2. Existing and Proposed Urban Limit Line Adjustment, dated January 15, 1997
3. Proposed Development Plan, dated January 15, 1997
4. Revised - Visual & Wetland Mitigation Planning Areas 31 & 32, dated October 11, 1996
5. Revised Circulation Map, dated January 15, 1997
6. Alternative Cowell Ranch Parkway Alignment, dated September 27, 1996

84.01

I. PROJECT REVISIONS

A. Realignment of Cowell Ranch Parkway. The proposed Cowell Ranch Parkway has been realigned to avoid the John Marsh Home State Park site, as indicated on the enclosed map titled "Alternative Cowell Ranch Parkway Alignment." As revised, the closest right of way is located across the creek, 400 feet north of the John Marsh Home. The realignment retains the John Marsh Home site in its existing configuration, eliminates any loss of useable park area, provides access and parking and creates a stronger community entry point to the Cowell Ranch development, parks and extensive open space to the south.

The relocation of the thoroughfare avoids the John Marsh House and its contributory setting and mitigates Impact CR-4, Historical Resources. Realignment of the thoroughfare eliminates conflict with Criteria 3 and 6, Section IV.A. Land Use, 3. Significance Criteria, page IV.A-31.

As depicted on the map, Marsh Creek Road will be terminated at the entrance to Cowell Ranch, and an access drive is shown which extends from the existing Marsh Creek Road along the eastern boundary of the John Marsh Home site. The access drive provides access to both the historic Home and the southernmost portion of the proposed community park, adjacent and west of the Home. The realignment has incorporated the design recommendations contained in Mitigation Measures LU-7 and CR-4, and provides an opportunity for parking areas for all recreational uses. The location of this access road preserves existing tree rows. Additional landscaping would be provided along the access roadway and the Parkway which could serve to screen the Home.

As a result of this realignment, the revised intersection of Marsh Creek Road and Cowell Ranch Parkway frames a view of the foothills and Mount Diablo and would provide theme landscaping and monumentation opportunities for the John Marsh State Park. In its revised configuration, the intersection provides a major gateway to the proposed project.

B. Redesign of Planning Areas 31 and 32. Planning Areas 31 and 32 have been redesigned to address visual and biological impacts as shown on the enclosed map titled "Revised-Visual & Wetland Mitigation." The redesign results in a unit reduction of 216 units (from 693 to 477) partially due to wetland setbacks and specifically due to sensitivity to visual impacts. The developed areas have been eliminated from the hillsides which were previously visible from Deer Valley Road and partially visible from a very short portion of Marsh Creek Road (proposed trail) at the top of the dam. Consequently, Impacts V-3, V-4, V-8 and V-9 have been substantially reduced. Development will no longer be visible from Deer Valley Road, Marsh Creek Road/Trail and far less visible from Round Valley Regional Park and Morgan Territory.

84.01

By providing a minimum 50' setback buffer from the wetlands and by rerouting the golf fairways, the redesign significantly reduces Impact BR-4 by decreasing the loss of jurisdictional wetlands from 28.5 acres to approximately 10 acres. Impact AG-1 is also positively affected by reducing the net loss of Class I and II soils.

C. High School Site. The General Plan Amendment map has been revised to depict a 40 acre "Reserve" High School site in the location requested by Liberty Union High School District. The reserve site will be available to the District for a period of ten years. If the District has not purchased the site within the ten year time frame, the 40 acres will revert to the underlying Single Family High Residential land use.

D. Urban Limit Line The redesign of Planning Areas 31 and 32 together with the realignment of Cowell Ranch Parkway, results in a change to the Urban Limit Line modification. The original request involved the trading of 262 acres for no net gain or loss. The redesign involves trading 253 acres for an increase of approximately 14 acres designated as open space and a concomitant decrease in developable acres. This minor change to the Urban Limit Line more accurately reflects topographical characteristics of the property and the property boundary.

II. SPECIFIC COMMENTS

A. LAND USE

1. Page III-8, Section b. Existing Land Uses

The Draft EIR identifies the apple orchard as consisting of 246-acres. The actual acreage under production is approximately 217. As shown on Figures 3 and 4, the apple orchard is bisected by several existing easements totaling 10.5 acres including a 30-foot wide gas pipeline and CCWD's 85-foot wide Los Vaqueros pipeline right-of-way. Another 15-acres of the orchard also will be eliminated to accommodate the planned SR-4 Bypass alignment further. Consequently, the proposed project will only impact an apple orchard of 217 acres. There is also a 3.5 acre area of Class 6 V.I. soil shown on Figure 22 of the Draft EIR which is not planted in the apple orchard due to poor soil quality.

84.02

2. Page IV-A.11, Figure 17

Figure 17 shows a portion of SPA "J" south of Marsh Creek Road between Orchard Lane and Walnut Boulevard as being within Brentwood's Sphere of Influence. This area is located in the County's Agricultural Core and outside the Urban Limit Line. While the area is located in Brentwood's Planning Area, it is not within its sphere of influence. Figure 17 should reflect the fact that LAFCO recently approved the extension of Brentwood's sphere of influence to include Blackhawk/Nunn's Back Nine Project (SPA K and subarea 1 of SPA I). Figure 16 also should be corrected along with the text on pages IV.A-22 and 23.

84.03

3. Page IV.A-32, Impact LU-1: Loss of Open Space

While the cumulative effects of proposed growth in the subregion may result in the conversion of open space lands to suburban type development, the cumulative impact can be reduced by the permanent preservation of other open space lands. Cowell Ranch purposes to retain over 3,000 acres of open space and 2,900 acres are within the Briones Valley. Combined with other regional open space in public ownership to the south and west, these open space lands would provide a permanent open space and greenbelt between Brentwood and adjacent urbanizing areas.

84.04

4. Page IV.A-37, Impact LU-4: Change In Physical Arrangement of Brentwood

In preparing its General Plan, Brentwood dealt with this same impact. After thorough analysis, Brentwood determined that development as contemplated in its General Plan (which includes development on Cowell Ranch) would not significantly change the physical arrangement of Brentwood as long as the development was consistent with the General Plan. (Brentwood General Plan EIR, pp. 42-44.) The proposed project, as acknowledged in the impact analysis, is consistent with the Brentwood General Plan. We strongly urge that this impact be re-evaluated in light of the analysis contained in the Brentwood General Plan. The Final EIR should conclude that this impact has been mitigated to an insignificant level since the proposed project is consistent with Brentwood's General Plan.

84.05

Please be advised that the Cowell Ranch project is not proposed as a "distinct, self-sustaining community." As acknowledged in various sections of the Draft EIR, Cowell Ranch is currently located within Brentwood's sphere of influence and is proposed to be annexed into the City for the provision of various public services. A number of street, trail, pedestrian, and utility linkages also are proposed which connect Cowell Ranch with the broader Brentwood community. Cowell Ranch is a "self-sustaining community" in the sense that it has adequate land set aside for schools, parks, and various public facilities in addition to a full range of housing, commercial retail, and employment uses. As such, the Cowell Ranch project will assist Brentwood in "creating a diverse, self-sufficient community which offers a broad spectrum of job opportunities, housing types, community facilities and commercial uses" as called for in the Brentwood General Plan (p. II.1-8). Mitigation LU-4 would result in the development of residential subdivisions devoid of commercial or public facilities.

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The provision of schools, parks and other public facilities on Cowell Ranch, required by both the Brentwood and County General Plans, are not designed to create an inward orientation, but are intended to create a balanced community consistent with the Brentwood General Plan.

Brentwood's planned growth was analyzed in the City's General Plan EIR and found to be less-than-significant. The built-out condition of Cowell Ranch in the Year 2026 should not be compared to the existing level of development in Brentwood. First, the Cowell Ranch project would not start construction until the Year 2000. Between now and the Year 2000 additional residential units will have been built in Brentwood, including the Hancock and Back Nine projects. Second, the impact analysis does not include projects approved by Brentwood, but not yet built, such as, the Spanos and Thermo projects. Third, the Cowell Ranch project will be built-out over a 25 year period and should be compared to the projected size of Brentwood at that time. Fourth, it is inaccurate to state that recently approved or pending development in Brentwood contributes to "the perception that Cowell Ranch is a distinct, self-sufficient community" (p.IV.A-37).

5. Page IV.A-41, Impact LU-5: Impacts on Commercial Retail and Office Development

The following statement in the Draft EIR is taken out of context, "an economic study completed for the project applicant indicates that existing (1994) market demand in Brentwood cannot support a substantial addition in convenience sales." Convenience retail which serves the daily needs of local residents would be supported primarily by residential development on Cowell Ranch. The Keyser Marston economic study on page 22 states that in contrast to the existing Brentwood retail demand, "the property itself (i.e., Cowell Ranch) will have enough additional sales . . . to support approximately 4,000 square feet of new convenience goods space (in the initial phase) and that this additional space is expected to increase steadily to approximately 10,000 square feet by 2005 and 150,000 square feet by 2010." The Keyser Marston economic study concluded that there are "three primary types of retail products which will be feasible on the property (i.e., Cowell Ranch) as residential development proceeds on the property and in adjacent parts of Brentwood." These include 1) convenience retail designed to provide for the everyday food, drug, and service needs of the residential population of the property, 2) regional retail which contains a wide mix of comparison and specialty retail, and 3) "big box" retail such as Costco or Walmart. Both regional retail and big

84.06

box retail currently do not exist in Brentwood nor are they suited for the downtown area. Given the above facts, Impact LU-5 should be less-than-significant.

↑ 84.06

6. Page IV.A-44, Impact LU-6: Rural Residential Uses

Brentwood was faced with this impact in preparing its General Plan. Brentwood reduced the impact to a level of insignificance by requiring development to be consistent with its General Plan (pp. 46, 47). In addition, the Brentwood General Plan EIR concluded that the anticipated development in the General Plan would not create an inconsistency with the Contra Costa County General Plan Land Use policies. The EIR recognized that the County General Plan established a 65/35 Land Preservation Standard which limits development to no more than 35% of the land in the County and preserves 65% of the land. The land in the Cowell Ranch project and in Brentwood's Planning Area falls within the area allowed for development. Application of applicable General Plan policies would mitigate any potential impacts to an insignificant level. We strongly urge you to re-evaluate this impact and thereby conclude, as did Brentwood, that this impact is insignificant.

84.07

7. Page IV.A-52, Impact LU-9: Impacts On Lands South of Camino Diablo

The Draft EIR should recognize that CCWD is in the process of acquiring 444-acres out of 630 acres of the land south of Camino Diablo for its Los Vaqueros Watershed and Oak Mitigation. The remaining 186-acres will continue to be owned by Cowell. This remanent piece of land is outside the existing Urban Limit Line, and the County has the ability to control future development of this land. Unless the County approves future General Plan and zoning changes, development would be limited to existing land uses allowed under the current zoning. Additional mitigation measures could include requirements that sewer and water infrastructure be sized to limit future development on these lands. Adoption of these additional mitigation measures would reduce the level of impact to less-than-significant.

84.08

B. AGRICULTURE

1. Page IV B-14, Agricultural Core

The Draft EIR states that the Agricultural Core boundary overlaps the northeast edge of the project site, as illustrated on Figure 25. Figure 25 is not consistent with the Brentwood General Plan which illustrates the boundary for the Agricultural Core area running coterminously with the Kellogg Creek side channel. Please confirm if the County's Agricultural Core boundary was intended to run coterminously with the Kellogg Creek side channel. It is typical of large land use studies to align the boundaries with natural or human made forms such as creeks, roadways, or ridgelines. Another natural made boundary, which is typically used is either the top or toe of slope. The Brentwood General Plan follows the Kellogg Creed side channel, while the County General Plan drops south of the creek, incorporating an additional 24.8 acres located in the northeast edge of the project site (the Draft EIR incorrectly states that the acreage contained in the area of "overlap" is 36 acres).

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The actual measurement is 24.8 acres, of that 10.1 acres are in the creek corridor either in the existing creek channel or the steep sides which have been caused by erosion. In those areas where

the creek sides have not been eroded, the acreage consists of a 100' setback which is required by the jurisdictional agencies to protect the sensitive habitat located in the creek. Approximately 3.4 acres will be taken by the SR-4 Bypass; 4.2 acres consist of 20% or greater slope within the Community College site and at the nose of the existing sand pit. Approximately 7.1 acres, made up of two parcels, consist of the relatively flat edge of the creek. The 7.1 acres consist of two isolated parcels which are in the proposed Community College site and the proposed Business Park site. They are 4.3 and 2.8 acres respectively.

84.09

2. Page IV.B-18, Impact AG-1: Loss of Prime Agricultural Lands

The Draft EIR incorrectly defines Prime Agricultural Lands as Class I and II soils. For land inventory purposes, categorical definitions of important farmlands have been developed which recognize the land's stability for agricultural production, rather than solely reflecting the physical and chemical characteristics of the soils. Class I and II soils are classified as Prime Farmland when they are used for "irrigated agriculture".

A single definition for Prime Agricultural Lands fails to recognize that guidelines for the development of Agricultural Core areas consider setting aside large coterminous lots to remain as farmed parcels. The parcels of Class I and II soils in the project area which are not subject to jurisdictional wetlands, do not consist of drainage areas, and are not affected by previous policy decisions, are separate, isolated parcels which are not conducive to successful farming operations.

84.10

Defining Prime Agricultural Lands as Class I and II soils is misleading to the reader, overstates the impact, and holds the project to a standard higher than industry practices, or adopted Countywide policy. The County General Plan identifies prime productive agricultural soils as Class I and II (General Plan p. 8-39 and Implementation Measure 8-z). It seems that the purpose of this classification is to preserve and protect land capable of producing food, fiber, and plant materials. Consequently, if the soil is not productive or irrigated it should not be considered Prime Agricultural Land.

The total number of irrigated farmland acres on Cowell Ranch is 246, and consists of the apple orchard. The SR-4 Bypass alignment and CCWD pipeline right-of-way will bisect the orchard, reducing it in size.

3. Page IV.B-21, Impact AG-2: Cumulative Prime Agricultural Lands

Other than the apple orchard, the Cowell Ranch project includes relatively small, non-contiguous areas of non-irrigated, prime soils. As discussed above, with the SR-4 Bypass alignment and CCWD pipeline right-of-way, the apple orchard will be reduced in size and bi-sected, putting into question its long term agricultural use. For these reasons, the project will not conflict with Conservation Element Policy 8-29 of the County General Plan which states that "large contiguous areas of the County should be encouraged to remain in agricultural production as long as economically viable."

84.11

4. Page IV.B-26, Impact AG-5: Precedent Setting Impacts on Agriculture

This impact is speculative since there are no development applications on file with the County or the City of Brentwood to develop the areas discussed in this impact. Impacts that are speculative, such as Impact AG-5, need not be discussed in the EIR and at a minimum, should not be identified as significant and unavoidable (CEQA Guidelines §15145). As correctly acknowledged in Laurel Heights Impr. Assn. v. Regents of the University of Cal. (1988) 47 Cal.3d 376, where future development is unspecified and uncertain, no purpose can be served by having an EIR engage in speculation as to the future environmental consequences.

84.12

Moreover, this impact has already been created by other projects. The agricultural core area discussed in this impact has already been disturbed by CCWD's right-of-way for its Los Vaqueros pipeline. In addition, the SR-4 Bypass is planned to bisect this area. This discussion should also recognize that the agricultural core lands discussed in this impact are identified for development in the Brentwood General Plan and the development of these lands was thoroughly analyzed in the Brentwood General Plan EIR.

Mitigation measures exist to reduce this impact to a less-than-significant level. Such measures include limiting the sizing of infrastructure to prevent future growth, and creation of easements and buffers between planned development and agricultural areas.

C. **TRANSPORTATION**

1. Page IV.C-38, Table 22: Key East County Roadway Improvement Assumptions

Table 22 should be reviewed to determine the current status of road improvements. For example, the Walnut Blvd/Balfour Road Intersection has been signalized. Fairview Avenue between Balfour and Central has been widened to a 3 lane divided arterial.

84.13

2. Page IV.C-42, Figures 34 and 35

Fairview Avenue was realigned through Blackhawk/Nunn's Back Nine Project to connect with Cowell Ranch's northerly primary entrance. These figures should be updated to reflect Brentwood's current local circulation plans. If an additional overcrossing is necessary, the Draft EIR shall continue to consider the cumulative traffic impacts.

84.14

3. Page IV.C-48, Impact T-1: Off-Site Traffic Conditions Exceeding LOS Standards

The Contra Costa Transportation Authority (CCTA) in cooperation with Caltrans and the East Contra Costa Regional Fee and Financing Authority (ECCRFFA), is working to complete a Major Investment Study (MIS) and Project Study Report (PSR) for Highway 4 between Railroad Avenue and the SR-160 interchange. This study includes an initial environmental analysis of improvements to this portion of Highway 4 and are major steps in the formal CalTrans Project Development Process. Upon completion detailed information regarding the scope and cost of needed improvements will be available.

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In addition, the ECCRFA currently is collecting fees from new development for needed road improvements including this segment of Highway 4. State Highway funding also may be available in the near future to help fund Highway 4 improvements which is a priority for Contra Costa County.

The impact analysis should take into consideration the effect TDM programs may have on reducing the number of commute hour trips. On Page IV.C-57 the Draft EIR states that "an aggressive program and the right combination of external conditions might decrease traffic to and from the project by up to ten or 20 percent." For Highway 4, this would mean a reduction in Phase I of 335-678 pm peak hour trips and in Phase II effective TDM programs would represent a reduction of 700-1400 trips. In addition, all of the planned growth may not occur.

84.15

4. Page IV.C-62, Impact T-4: Increase In Urban Traffic On Concord Avenue

The City of Brentwood, in conjunction with representatives from Blackhawk-Nunn and Cowell Ranch, resolved the circulation pattern from Cowell Ranch through Blackhawk-Nunn's Back Nine project by connecting the southerly extension of Fairview Avenue to the proposed Cowell Ranch "M" Street and the looping of Concord northward to a local street. This would limit east bound traffic from Cowell Ranch.

84.16

5. Page IV.C-64, Impact T-7: Safety Due to Cul-de-Sac Length in Planning Area 32

Emergency vehicle access is included for Planning Area 32 and is shown on the Land Use Plan and Circulation Plan submitted as part of the application. The proposed EVA extends from Planning Area 32 to Deer Valley Road. Trash collection accessibility should be reviewed by the appropriate waste management company which will serve the area.

84.17

6. Page IV.C-68, Impact T-12: Adequate Transit Service

With regard to whether there is sufficient transit capacity upon completion of the project, the only reference in the document to the derivation of transit demand is found on page IV.C-48, which summarizes the mode choice component of the travel demand forecasting model used in the analysis. There is no information describing the magnitude of transit demand generated in connection with Cowell Ranch. Thus, it has not been demonstrated that Cowell Ranch will generate sufficient transit demand to result in a shortage of transit capacity, as required by the significance criteria. If transit services is not provided to Cowell Ranch there would be no impact on the existing level of service.

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The mitigation measure in this Section implies that the applicant will be responsible for paying for service to avoid a significant unavoidable environmental impact. Please recognize that the applicant is doing all that is feasible to provide transit service as discussed in its project application. It would not be feasible to require Cowell to pay for transit services and operation costs. We are not aware of this requirement being imposed on any other applicant.

84.19

D. DRAINAGE, FLOOD CONTROL AND WATER QUALITY

1. Page IV.E-18, Impact D-1: Marsh Creek

The applicant's civil engineer and the County Flood Control District have determined that this impact has been addressed. Flood Control District staff has developed hydrologic models for determining pre- and post-project runoff estimates. In using this model, it has been determined that the detention basin in conjunction with reservoir improvements effectively addresses duration and volume impacts at the critical peak discharge times. These improvements spread the increased runoff throughout the storm event and thus does not contribute to the magnitude of existing flood conditions downstream of the project (see p. IV.E-17). These improvements would be made as part of the Drainage Area Plan for Marsh Creek.

84.20

2. Page IV.E-19, Impacts D-2 and D-3: Marsh Creek and Kellogg Creek

No downstream improvements are required if on-site mitigations are implemented as outlined above. The proposed drainage area improvements would be part of the Marsh Creek and Kellogg Creek Drainage Area Plans. The applicant would be responsible for paying its fair share of regional drainage improvements.

84.21

E. PUBLIC FACILITIES AND SERVICES

1. Page IV.F-22, Impact PF-2: Raw Water Supply

This impact states that there is currently no raw water supply available to meet project demand. Be advised that Cowell has an existing agreement with the East Contra Costa Irrigation District to supply 1,000 acre-feet annually, which is currently used to irrigate the apple orchard. This is more than adequate to meet the raw water demand on Cowell Ranch. Alternatively, Cowell has a signed a Water Service Agreement with BBID, if exercised, could provide up to 3,900 acre-feet of raw water annually.

84.22

F. BIOLOGICAL RESOURCES

1. Page IV.G-9, Paragraph 2

This paragraph should reflect the fact that an additional 41 acres of the project site north of Briones Valley Road were not included in the earlier Zentner survey. A second survey was done by Zentner in April, 1994. The Corps of Engineers issued a verification for this additional 41 acre on June 2, 1994 which included 2.27 acres of wetlands, bringing the total wetland acreage on site to 169.28 acres.

84.23

2. Page IV. G-37 to IV G-42, Impact BR-4: Loss Of Jurisdictional Waters

The Draft EIR indicates that development as proposed would result in the loss of 28.5 acres of jurisdictional water and wetlands. In response to the Draft EIR, Cowell has redesigned the golf

84.24

course/residential portion of the project in Planning Areas 31 and 32, that reduces units from 693 to 477, reorients the layout of the golf course and reduces wetland impacts. With these changes, the overall wetland impact would be reduced to approximately 10 acres. The applicant continues to work with its consultant to further minimize wetland impacts through site plan modifications prior to filing permit applications with the Corps of Engineers. A pre-application meeting with the Corps and other regulatory agencies took place on December 5, 1996. An application submittal is expected to occur in April of 1997.

84.24

3. Page IV.G-45 to IV.G-51, Impact BR-8: Impacts On San Joaquin Kit Fox

It is premature that the Draft EIR would include a calculation of potentially required preservation area for the kit fox. The Draft EIR admits that the amount of compensatory habitat is determined by the U.S. Fish and Wildlife Service (USFWS) during consultation for a Section 10(a) permit (p. IV.G-49). The basic mitigation requirement of the Draft EIR is to achieve approval of the USFWS and Department of Fish and Game (p. IV.G-51). Cowell's consultants have twice met with USFWS (at the December 5 pre-application meeting and with the Supervisor of the Endangered Species Office on December 12, 1996) and stated the applicants intention to proactively offer for preservation purposes, sizable acreage of importance to the kit fox from a regional context, along with other protective measures for the species. The applicant has initiated informal discussions with appropriate agencies to work out mutually-agreeable mitigation requirements recognizing that the final mitigation plan for the kit fox (along with other sensitive species) will be determined within of a formal Section 7 consultation within the context of an overall Habitat Conservation Plan (HCP) and Section 10(a) permit. It should also be emphasized that there have been no documented sightings or evidence of kit fox observed on Cowell Ranch.

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4. Page IV.G-51, Impact BR-9: Impacts On Vernal Pool and Longhorn Fairy Shrimp

Cowell's consultants will be conducting wet season surveys for vernal pool fairy shrimp and longhorn fairy shrimp in accordance with USFWS protocols during the 1996-97 winter rainy season.

84.26

G. MINERAL RESOURCES

1. Page IV.H-5, Impact MR-1: Project Preclusion of a Significant Mineral Resource

The above impact statement should be corrected to reflect that Figure 8-4 of the County General Plan does not identify a "significant mineral resource area" on the Cowell Ranch site. In addition, the California Department of Conservation, Division of Mines and Geology, does not identify the sand deposit on Cowell Ranch as a significant mineral resource. Please note that Figure 8-4 is based on information from the Division of Mines and Geology.

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As recommended in the Draft EIR, the applicant is preparing to mine the resource. The mining activities are expected to commence before development occurs on Planning Areas 40 and 39 or will be phased so as not to impact the proposed development. (Please be advised that the majority of the sand deposit is located in Planning Area 40 and only minor deposits are located in Planning Area

84.28

39.) To the extent necessary, it is anticipated that this Draft EIR will be used as the environmental documentation for the sand mining activities.

84.28

H. VISUAL FACTORS

The visual analysis section of the Draft EIR relies on a system of computer driven view cones. While this system can be useful to ascertain visual impacts, it should not be the only tool used. Other factors must be considered such as existing topography and development, applicable general plan policies and goals, and design philosophy of the project as discussed below.

84.29

1. Criteria in the County and Brentwood General Plans

The site does not contain prominent ridgelines per County standards, and the City of Brentwood does not define prominent ridgelines in its General Plan. Figure 59 incorrectly designates topographic features within the project area as significant ridgelines.

84.30

2. Computer Mapping Methodology

The analysis relies on computer modeling and graphics with regard to the identification, assessment, and ranking of visual impacts, and the suggested mitigation measures. However, the analysis does not explain ranking and weighting of view cones and viewshed criteria. The relative weight of a viewshed or view cone to another is not defined. The relative importance of the criteria used in Appendix G is not defined. The reader is left to assume that all criteria is equally significant, and that by definition all represent equally negative visual impacts.

84.31

3. Use of Graphics and Photographs

The graphics do not differentiate between the visibility of natural hillsides and proposed development. The graphics should differentiate between the areas proposed for development and those proposed to be retained as permanent open space. This method would reveal that in excess of 70% of the site will remain in a natural state. Furthermore, the graphics do not delineate the boundaries of the proposed General Plan Amendment, suggesting that land uses and impacts beyond the project boundaries are attributable to Cowell Ranch.

84.32

The photographs which are used to depict viewsheds and view cones do not take into account existing residential development which provide a barrier to the views. More accurate and updated photographs are included in these comments.

84.33

4. Existing Topography and Preliminary Grading Plan. Benefit from Field Verification

Field verification would clearly demonstrate the existing or proposed visual barriers (i.e., existing trees, residential development, the Marsh Creek levee, existing development along Balfour Road, development which is under construction and is presently being graded, and future alignment of the SR-4 Bypass). Impacts V-2 through V-6, V-8 and 9 state that specific Planning Areas are visible

84.34

when the view is interrupted by topographic differences, vegetation, the SR-4 Bypass and either existing and proposed off-site development.

For example, the Preliminary Grading Plan, and the designation of significant ridgelines in Figure 59, results in the finding that Planning Area 11 has significant ridgelines impacts. This occurs in impacts V-2, V-5, V-6, V-7, V-8 and V-9. As shown in Figure 59, Planning Area 11 does not contain a significant ridgeline and is proposed to be graded as shown on the Preliminary Grading Plan. At finished grade this area will not be visible as represented in the Draft EIR.

5. Project Design Philosophy

Due to the fact that the project area does not contain prominent ridgelines as defined by County and City policy, the design philosophy considered topographic elements and natural site features. Distinctive landforms were retained in order to preserve the major topographic characteristics of the site. The result is that in excess of 82% of the natural hilltops are undeveloped. Hilltop development has been sited so that the more prominent landforms serve as a backdrop to the development.

Grading and development would be restricted to areas of less 15% slope, excepting minor encroachments for roadway linkages and Planning Area continuity, with the objective of preserving the hillsides. (See, Preliminary Grading Plan.) The County hillside development standards permit grading up to 26% slope and beyond, if grading is sensitive.

The natural open space network is preserved inside the development area. (See, P-1 Zoning Book submitted as a part of the application.) The planning concept which is discussed in the P-1 Zoning Book stresses maintaining and enhancing the natural setting of the property by retaining many of the major topographic forms.

Overall, the basic difference between the planning philosophy which was used in the design of the project, and the analysis which is in the Draft EIR differs in that the environmental document assumes development on hillsides while the project restricts hillside grading and the Draft EIR designates topographic features as prominent ridgelines, when in fact they are not.

6. Findings of Significant Unavoidable Impacts

The Draft EIR states that due to the conceptual nature of the proposed project the analysis is based on general conclusions regarding the visibility of proposed Planning Areas from selected viewpoints. The Draft EIR recognizes that the impacts will not occur until development occurs, and recommends mitigation measures which include design standards to be applied on a case by case basis. Recognizing the fact that the impacts happen in the future, will be the subject of design standards and are not a part of this application, challenges the Draft EIR conclusion that visual impacts at this level are significant and unavoidable.

7. Specific Comments

The use of this system of computer driven view cones without consideration of the above factors, overstates the visual impacts of the project. The following comments critique the views in consideration of the above factors.

84.37

a) Page IV.J-35, Impact V-2: Views from Balfour Road

Please refer to photos A and B which are attached. (Exhibit B). Cowell Ranch would not be visible to anyone walking or driving along this section of Balfour Road. Balfour Road (between Fairview Avenue and Walnut Boulevard) will be completed as a four-lane thoroughfare lined throughout by sound walls, trees, and homes. The remaining section of Balfour Road will be covered by a series of subdivisions that have either been approved or are planned. The view cone and viewshed mapping (Figures 60 - 62) should be revised and field verified to reflect these and the following facts.

- Planning Area 11 does not have a significant ridgeline.
- Views of Planning Areas 6, 7, 8, 9, 10, 11, 16, and 23 are substantially blocked by existing and proposed development adjacent to Balfour Road and the SR-4 Bypass.
- The higher elevations of Planning Area 16 will be visible in distant views as a natural hilltop in the proposed neighborhood park.
- Planning Areas 35 - 38, 45, 46, and 58 will not be visible due to existing and proposed development adjacent to Balfour Road and the SR-4 Bypass.
- Fewer than five residential rooftops in Planning Area 52 will be visible from distant views.

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Given these facts, the visual impact from this location is less-than-significant.

b) Page IV.J-38: Views From Deer Valley Road Corridor

Please refer to photo F which is attached. Planning Areas 31 and 32 within this view corridor have been redesigned to eliminate development from the hillsides which were visible from Deer Valley Road and partially visible from a short portion of Marsh Creek Road at the top of the dam. In addition,

- Planning Areas 31 and 32 as revised will be marginally visible through the western topographic saddle of the Planning Areas.
- Planning Areas 1, 6, 23, 58, 60, the North Village, the East Village and West Creekside are not visible due to intervening topographic elements.
- The development area of Planning Area 3 is to the west of a 400' ridgeline. Limited rooftops could be visible dependent upon final design and landscape treatment.
- Fewer than ten residential rooftops in Planning Area 52 will be visible from distant views.

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Given these facts, the visual impact from this location is less-than-significant.

c) Page IV.J-3, Impact V-3: Views from Camino Diablo/Marsh Creek Road

Views of Planning Areas 33, 34, 35 and 36 are not visible due to intervening topography, and should not be included as a part of the mitigation analysis.

d) Page IV.J-41 Impact V-5: Views from Walnut Boulevard/Vasco Road Corridor

Please refer to photo C which is attached. Views of Cowell Ranch from the section of Walnut Boulevard north of the Kellogg Creek side channel will be substantially blocked due to orchards within the Agricultural Core. In addition, the SR-4 Bypass will substantially block the views of Planning Areas within West Creekside and North Village. Figure 66 should be revised to reflect the existing and proposed visual barriers. In addition,

- Planning Area 11 does not have a significant ridgeline.
- Planning Area 5, 12, and 13 will not be visible due to foreground barriers and intervening topography.
- Planning Area 16 is visible as a natural hilltop in the proposed neighborhood park.
- Planning Area 3 may have a limited number of visible residential units in the distant view, clustered within the existing oak trees.
- Planning Areas 33, 34, 35, and 36 will not be visible to do foreground barriers (orchards) and the SR-4 Bypass.

e) Page IV.J-44, Impact V-6: Views from Marsh Creek Road (North-South)

Please refer to photos C and F which are attached. Figure 67 should show only those Planning Areas which can be seen from Marsh Creek Road. The graphic does not clearly delineate the areas of stated "significant unavoidable (visual) impacts" of proposed land uses. Furthermore, visibility, as identified by the computer, is plotted far beyond the Cowell Ranch property. Existing topographic features and land uses also would limit views. In addition,

- Planning Area 32 as revised results in limited visibility from the top of the dam, only. All other views from Marsh Creek Road to the Golf Course residential subareas are blocked by existing trees around the Marsh Creek reservoir, the levee, and intervening topography.
- Planning Area 11 does not have a significant ridgeline.
- Planning Area 3 may have a limited number of residential units and rooftops visible in distant views dependent upon final design and landscaping. The grading concept places development north of the ridgeline which should act as a partial barrier to visual impacts.
- Views from the proposed abandoned Marsh Creek Road should reflect the height of a person walking.

Mr. James W. Cutler
March 14, 1997
Page 15

Given these facts, the visual impact from this location is less-than-significant.

f) Page IV.J-46, Impact V-7: Views from SR-4 Bypass

Views from the SR-4 Bypass do not adequately consider either road elevation or sound mitigation measures. In addition,

- Planning Area 11 does not have a significant ridgeline.
- Planning Areas 31 and 32 will not be visible due to intervening topography.

g) Page IV.J-4, Impact V-8: Views from Round Valley Regional Park

The vast majority of areas of project site and background visible from Round Valley Regional Park as depicted on Figure 69 are natural unbuilt features. Similarly, the view cone depiction incorporates substantial land outside the boundaries of Cowell Ranch. In order to enhance the utility of the computer analysis it would be helpful to show only those development areas on Cowell Ranch that are visible. Based on the information in the Draft EIR it is impossible to find the impact significant and unavoidable. Mitigation measures including landscaping, building siting, and height limits can be adopted to reduce this impact to a less-than-significant level.

h) Page IV.J-49, Impact V-9: Views from Morgan Territory Regional Preserve

Figure 70 suffers from the same shortcomings as Figure 69, discussed above, compounded by the fact that the view is from a farther distance of approximately 6 miles. A field analysis would have revealed that the views described in this impact are blocked by existing vegetation. In fact, the northern boundary of Morgan Territory is comprised of a thick growth of oak trees and scrub oak which presents a natural barrier to views described. In some areas where the growth is less dense, distant views are possible and generally encompass Contra Costa and San Joaquin Counties. Due to the existing natural barrier together with the misleading nature of Figure 70, it is impossible to find the impact significant and unavoidable.

i) Page IV.J-52, Impact V-11: Views Of Electrical Transmission Lines

Impact V-11 is not created by the project, but rather is an existing condition. A project is not required to mitigate pre-existing conditions. See, Baird v. County of Contra Costa (1995) 32 Cal.App.4th 1464.

j) Page IV.J-53, Impact V-12: PG&E Natural Gas Compression Facility

Impact V-12 does not result from the project, rather it is existing. A project is not required to mitigate pre-existing conditions. See, Baird v. County of Contra Costa (1995) 32 Cal.App.4th 1464.

Additional comments on this section are set forth in the attached memorandum to Nathaniel J. Taylor from Hartmut H. Gerdes dated January 25, 1997 (Exhibit "C").

I. NOISE

Impacts N-3, N-4 - N-8, N-11 and N-12 are not created by the project, rather they are existing. A project is not required to mitigate pre-existing conditions. See, Baird v. County of Contra Costa (1995) 32 Cal.App.4th 1464. To the extent feasible and necessary, the applicant is willing to consider design features to assist in addressing these impacts. However, this Draft EIR should note that the applicant cannot be required to mitigate a pre-existing condition or an impact that is not created by the project.

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1. Page IV.L-21, Impact N-1: Roadway Traffic Impacts

This impact implies that the applicant must mitigate noise impacts resulting from traffic on SR-4. The noise impacts will result with or without the project. The SR-4 is creating the impact and we recommend the SR-4 Bypass Authority adopt design standards to mitigate noise which can consist of a landscape earth berm with a garden wall, if necessary.

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2. Page IV.L-31, Impact N-9: Project Impacts On County Airport

What is the amount of air traffic fly overs of Cowell Ranch? At what altitude would these flyovers occur? In order to adequately assess impacts, please plot all airport zones on the project site plan. Other mitigation measures exist such as left or right 45-degree turns to avoid any flyovers. In the event there are impacts, proper disclosure of air traffic to home buyers should be adequate.

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3. Page IV.L-35, Impact N-13: Cumulative Traffic Noise

Cumulative traffic noise can be mitigated by sound walls per acoustical engineer recommendations. Approximately 12 existing residences are located along Concord Avenue between the project site and Walnut Boulevard. Most of these homes are setback 100 feet from the roadway. Payne Avenue does not extend west of Marsh Creek. Five homes are located along Marsh Creek Road between the SR-4 Bypass and Walnut Boulevard.

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J. ENERGY

1. Page IV.N-6, Impact E-2: Transportation Related Energy Consumption

The proposed project was designed to minimize the impact on energy consumption. The Draft EIR acknowledges that the proposed project includes features intended to limit automobile use and recognizes that project related energy usage would be substantially reduced if these features were implemented. The project promotes a reduction in fuel consumption by encouraging, through its design, people to walk and bicycle within the project. Additional mitigation measures also are available that can further reduce the project's transportation related energy consumption, including TDM programs as outlined on pages IV.C-57 - 59, or adoption of the jobs program outlined in Section IV.A. of the Draft EIR. The consumption of non-renewal petroleum fuels also could be reduced by wiring homes for electric cars. Public policy in California mandates that by the year 2008, 10% of the cars sold in California will be electric. Since the proposed project does not have

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a higher energy consumption per trip, does not conflict with existing plans, includes design features to reduce the use of energy consumption, and additional mitigation measures are available, this impact should be less-than-significant.

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K. ALTERNATIVES

1. Page V-29, Section E.1.g re: biology and Section E.2.g. re: Alternatives Sites

The Draft EIR indicates that wetland impacts on either of the two alternative sites (Antioch Future Urbanization Area 1 and the North Livermore site) would likely be less than at Cowell Ranch. To our knowledge, no wetland delineations have been performed at the alternative sites. Huffman & Associates, Inc. (H&A) has done a preliminary examination of the alternative sites and found them to have similar hydrologic and topographic features to Cowell Ranch. Moreover, the respective County Soil Surveys covering the alternative sites show them to have significant areas of hydric soils and/or soils with potential hydric inclusions; a potential indication of wetlands. In light of this preliminary information, we believe it is premature to indicate that wetland impacts would be less at the alternative sites than at Cowell Ranch.

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L. PROJECT BENEFITS

Some of the benefits of the Cowell Ranch project are discussed throughout the Draft EIR. It is important for the decision makers and members of the public to understand both the potential impacts and the benefits of the project. So that all the major benefits of the project are identified in one place, we compiled the following list.

1. Approximately 70% of the project site will remain in open space or public use. Environmentally sensitive land will be dedicated to protect habitat preservation areas, trails and wildlife corridors.
2. Provision of approximately 6,600 jobs which East County is in great need of.
3. Housing for a wide variety of income levels which is needed for the County and Bay Area residents and mandated in the County's and Brentwood's General Plans and state law.
4. The project offers a better than 1:1 jobs/housing balance.
5. A community college site which the Community College Board has recognized is essential for East County.
6. Reduction of existing and future stormwater flows through Marsh Creek downstream from the project site.
7. Increased revenues to the County and Brentwood and other agencies which receive property tax revenues and other monies (including development fees) from the project.

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Cowell Ranch
Draft EIR

PHOTOS - A and B were taken in December, 1996. The photos illustrate the barriers created by existing and planned development when considering views of the property from the Balfour Road. Photo A clearly exhibits that Cowell Ranch is not visible from Balfour Road where development has occurred. Photo B illustrates development under construction in the Blackhawk-Nunn Back Nine subdivision. The arrows point to distant Cowell Ranch property. The views will be blocked at completion of the development, as well as the SR-4 Bypass.

Both photographs were taken at the locations on Balfour which are included in the Draft EIR.

PHOTOS - C and D were taken in December, 1996. The photos illustrate barriers created by existing orchards. Photo C is a view across the Agricultural Core and exhibits that small portions of Cowell Ranch are barely visible from Walnut Boulevard. It should be noted that the trees are deciduous and at the time the photograph was taken were barren.

PHOTO D illustrates the effect of close foreground vegetation on view corridors. Road standards which require landscaped edges, together with project boundary landscaping and garden walls will similarly inhibit the view corridor. The significance of the visual barrier at this location is caused by the evaluation difference of Vasco Road and the project. The visual analysis failed to consider elevation and other view inhibitors.

PHOTOS E & F were taken in December, 1996. The photos illustrate the topographic barriers and site distance factors for Planning Areas 31, 32, 52 and 3. Photo E demonstrates that Planning Areas 31 and 32 are not visible from the intersection of Marsh Creek Road and Camino Diablo due to intervening topography. Photo F demonstrates the limited visual impact of proposed Planning Areas 3, 31, 32 and 52 when viewed across Briones Valley from Deer Valley Road. The arrows on the far right and far left indicate the single family development in Planning Areas 3 and 52 which may be visible, depending upon final design and landscape standards. The center arrow illustrates the extent of development in the revised 31 and 32. Design and landscape could further reduce the visibility of the proposed homes.

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MEMORANDUM

To: Nathaniel J. Taylor, Vice President Real Estate, S.H. Cowell Foundation
From: Hartmut H. Gerdes, Principal, Square One Productions

Re: Cowell Ranch General Plan Amendment/
Review of Draft EIR, Section J VISUAL FACTORS

January 25, 1997

At your request I reviewed Section J VISUAL FACTORS of the Cowell Ranch Draft EIR, prepared by Wagstaff and Associates, with CADP being its computer simulation consultant. My peer review's focus is on the methodology, assumptions and techniques of the computer graphics tools, which are of central importance to Section J, and on some conclusions drawn with their help regarding visual impacts of the proposed Cowell Ranch General Plan Amendment.

This memorandum represents a qualitative and dispassionate peer review. I was not asked to re-generate and assess specific quantitative aspects of the computer model or to consider possible budget constraints. Furthermore, it was not my assignment to evaluate the merits of the proposed Cowell Ranch General Plan Amendment or Section J's by general professional standards most comprehensive and systematic overall approach under CEQA guidelines.

I bring to the assignment a background in urban design and planning, and fifteen years of experience in visual design media and simulation relative to EIRs. While my firm has not produced viewsheds and view cones, I understand their concept sufficiently to assess their application.

This memorandum is written and organized so as to be useful to people reading Section J.

EXHIBIT "C"

Table of Contents

- 1.0 Peer Review's Summary of Findings
- 2.0 Section J Review: Methodology and General Recommendations
 - 2.1 Purpose of computer graphic tools
 - 2.2 Section J's computer graphic tools
 - 2.3 General critique of computer graphic tools application
 - 2.4 General Recommendations to facilitate public review process
- 3.0 Field Observations and Specific Recommendations

1.0 Peer Review's Summary of Findings

1.1 Methodology: Although Section J's interpretations are detailed and far-reaching, no clear statement as to the methodology of the computer analysis, and why it was chosen, is offered to the reader. This would be useful, however, because the Section J analysis strongly relies on computer modeling and graphics [Figures 60 through 70] with regard to the identification, assessment and ranking of visual impacts, and the suggestion of mitigation measures.

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1.2 Assumptions: Neither one of the two most important assumptions which were used for the computer model, and on which the computer graphics are based, have been fully adhered to. As a result, the visual analysis may be confusing for the reader and reviewer. Furthermore, the fact that assumption a) was not fully adhered to and can be questioned, and that assumption b) was not fully adhered to to a considerable extent invalidates Section J's findings and conclusions.

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The assumptions state, in pertinent part, that the analysis was derived from "viewshed and view cone depictions... of the site (which) are visible from a height of six to ten feet above ground level", as well as views which "consider existing and planned roadside visual barriers [subdivisions, etc.]...". (The assumptions can be found in the footnote on page IV.J-20.) (See also par. 3.0 below.)

1.2.a) Re. Assumption a): The above-quoted assumption of viewing heights from 6 feet (walkers) to 10 feet (elevated vehicles) above ground level is generally actually closer to 5 feet, according to information obtained from CADP. Still, viewing height assumptions stated in Section J need to be questioned. Drivers of sedans and SOVs would see the landscape from 4 and 5 feet heights, respectively. Viewing heights above that are of little relevance for scenic roads of relatively low traffic volumes. Walkers are few in numbers, and views from elevated seats in trucks and buses are the exception on scenic roads. Furthermore, lower traffic volumes mean less viewers. Scenic Deer Valley Road and Camino Diablo/Marsh Creek Roads should not have been analyzed with the same viewing height standard as the planned SR 4 Bypass.

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1.2.b) Re. Assumption b): It is unclear why Section J states that "existing and planned roadside visual barriers [subdivisions, etc.]" would be considered with regard to view sheds and view cones when, in fact, such assumption was actually only applied along a small section of Balfour Road. The reader who will drive around the larger area beyond Cowell Ranch will find that certain emerging subdivisions and some orchards were not considered as view obstacles in the visual analysis, and thus, visual impacts were considerably overstated.

1.3 Readability: The computer graphics' readability and verification by the Section J reader is difficult and somewhat confusing. The graphics do not distinguish between the visibility of hillsides and the visibility of proposed land uses. The consistent use of grey and white graphic values assigned (legend) may overstate the visual impacts for some readers, who might assume negative impacts to occur as a result of proposed development when, in fact, the "impact" may be caused by hillsides in their natural state.

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1.4 Areas of Impact: The graphic exhibits do not clearly delineate the boundaries of the entire proposed Cowell Ranch General Plan Amendment. Therefore, many of the residential and other visible land uses attributable to areas outside the property could appear to some readers to be actually attributable to the proposed Cowell Ranch General Plan Amendment.

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Furthermore, the exhibits do not differentiate between the areas proposed for development within the project site and those which are proposed to be retained as permanent open space. Thus, within the Cowell Ranch project site the simulations do not graphically illustrate the fact that over 70% of the site will remain in an undeveloped natural state.

1.5 Recommendation: If the conceptual computer model and graphics have been developed to identify and assess visual impacts, and if their ranking has been established to offer "general guidance to future County and City decision-makers with respect to focusing design review" (Section J, Page IV.J-21) the identification, assessment - and ranking - of visual impacts, and the suggestion of mitigation measures, should be thoroughly revisited - and revised.

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1.6 Summary: In their present form the computer graphics are unclear and inconsistent, and potentially misleading for some readers. They do not entirely live up to their stated objectives, and are not of sufficient help to the public decision-maker.

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2.0 Section J Review: Methodology and General Recommendations

2.1 Purpose of computer graphic tools

An ambitious attempt was made by the EIR author to develop a broad-based tool for identifying, assessing and ranking visual impacts, and to serve design review and evaluation in the course of the present and future development process. The tool is meant to answer questions, such as: What elements of the envisioned Cowell Ranch development are visible from key public vantage points - and which ones are hidden from view? And: What design standards should be adhered to if visibility of structures - i.e. visual impacts - are to be minimized?

2.2 Section J's computer graphic tools

The computer graphics (Section J, Figures 60 through 70) use two particular tools: viewsheds and view cones. They are central to the identification, assessment and ranking of visual impacts, and are based on the applicant's proposed conceptual grading and land use plans.

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Viewshed: A viewshed in essence represents a large series of vertical view planes, generated by a computer, and cutting across the applicant's proposed grading plan. It is thrown from a fixed vantage point, with the many vertical planes creating a fan that may be said to resemble the horizontal movement of a person's eyes. The computer then shows in a two-dimensional fashion what human eyes see as three-dimensional objects. The computer identifies major visible objects, and hides invisible valleys, trees, buildings, etc.

View cone: A view cone represents a large series of viewsheds, thrown by a computer from a moving vantage point, resembling the linear view experience of a person riding along in a vehicle (rather than the driver's experience), progressing at a set speed. Again, the computer identifies the visible objects in a two-dimensional fashion, which human eyes perceive in the third dimension. Section J's computer plots distinguish between areas visible for more than 20 seconds, for more than 10 seconds, and for less than 10 seconds.

2.3 General critique of computer graphic tools application

While having merits in theory, Section J's practical application of viewsheds and view cones do not fully accomplish what they are expected to do, namely to be broad-based, universally applicable tools. For instance, if at the edge of a planning area the computer is asked to "drive by" an existing or proposed human-made or natural obstacle of even just one story height the entire plot - which was produced assuming the obstacle does not yet exist - would end up being of little practical value. In other words, if a proposed Cowell Ranch building would be built, or somebody else put up a building of just 10 feet height, along, say: Walnut Boulevard, the landscape and any other buildings built behind such building would be invisible. Therefore, the remainder of the proposed plan could no longer be tested on the basis of the view shed or view cone presented. The same, of course, applies to a berm (such as proposed for the SR 4 Bypass corridor), or a soundwall.

The application of a couple of inconsistently applied Section J assumptions leads to a few arguably questionable conclusions that will be further discussed on a case-by-case basis below (par. 3.0). With regard to the first of Section J's stated assumptions, that is that "existing and planned roadside visual barriers [subdivisions, etc.]" would be considered, it is obvious that the viewsheds and view cones do not take into account most of the important existing and emerging roadside visual barriers (subdivisions, orchards, et al). It is understood, though, that the EIR evolved over a certain length of time, and some ideas, such as berms and landscaped fences along the SR 4 Bypass, were not known and thus could not be factored into the computer model and graphics by the time of their production deadline.

With regard to the second key assumption of viewing heights from 6 feet (walkers) to 10 feet (from elevated vehicles) above ground level, the computer consultant explained upon being interviewed, that the viewing height range is conceptual and is generally actually closer to 5 feet. Due to the fact that accurate road profiles were not available actual viewing heights may start even lower.

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Assuming for a moment, however, that the EIR's stated assumption of 6 to 10 feet is the yardstick, taking into account a truck's viewing height, then it would have only very limited validity for scenic roads, such as Camino Diablo/Marsh Creek Road, and, most certainly, for Deer Valley Road. The latter roads were designed for, and are primarily used by, sedans with viewing heights in the 4 feet (sedan) to 5 feet (SOV) range.

In summary, the two above-quoted key assumptions are inherently unclear and contradictory in their definition and execution. It is essential for any public presentation to be comprehensible to lay audiences, to be clear and non-ambiguous. This holds particularly true with regard to interested lay reviewers whose three-dimensional imagination may not compare to that of design/planning professionals and whose knowledge of the richly undulating Cowell Ranch landscape may be limited.

Both, professional and lay reviewers, need to be able to identify and verify, respectively, the most significant conclusions drawn on the basis of the viewshed and view cone graphics. Section J's graphics make verification difficult because the legend's shades of grey and white used to depict visual impacts do not distinguish between proposed development/open spaces and landscape elements dedicated to remain undisturbed. Furthermore, visibility, as identified by the computer, reaches - and is plotted - far beyond the Cowell Ranch property, without clearly identifying the property's borders. Thus, certain graphics may possibly represent excessive visual impacts in some reviewers' minds where they may actually not exist.

2.4 General Recommendations to facilitate public review process

Section J should be thoroughly revisited to improve its utility and revise its conclusions. It should state its computer graphics methodology, clarify and adjust its assumptions where necessary, and, ultimately, hone its conclusions with regard to visual impacts, their ranking, and suggested mitigation measures. Working with the city of Brentwood, any new ideas introduced after the graphics' and EIR's respective production deadlines should be incorporated.

The computer graphics should clearly delineate the Cowell Ranch property boundaries, the area containing the proposed Cowell Ranch community and the area of future dedicated open space. The visual impacts identified should clearly distinguish between proposed land uses and hillsides which are proposed to remain in their original state.

While it is understood that the General Plan Amendment and the EIR's computer graphics are conceptual in nature, the reader must be clearly informed by them, and be enabled to understand and verify stated visual impacts. Thus, they can effectively aid in facilitating communication between all parties involved in the public review process of the proposed Cowell Ranch General Plan Amendment, as well as aid all future planning and design reviews deploying Section J tools.

Ultimately, there must be no doubt in the reader's mind as to where - and what - the visual impacts of the proposed General Plan Amendment are - and where there are none.

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3.0 Field Observations and Specific Recommendations

The following section correlates specific viewshed and view cone graphics as presented in Section J Visual Factors with field observations, and makes specific suggestions for changes and improvements.

Note: The following listing of computer graphics follows the graphics designations of Section J, Figures 60 through 70, and not the text, which partly deviates from these designations.

View 1: BALFOUR ROAD CORRIDOR

Figure 60 (View cone)

View 2: BALFOUR ROAD AT THE GRIFFITH LANE INTERSECTION

Figure 61 (Viewshed)

View 3: BALFOUR ROAD AT THE FAIRVIEW AVENUE INTERSECTION

Figure 62 (Viewshed)

As is generally the case already, and certainly true in a few more years from now (and prior to the advent of the Cowell Ranch community), Balfour Road (between Fairview Avenue and Walnut Boulevard) will be completed as a four-lane corridor, lined throughout by walled-in homes. Furthermore, the remaining area located between Balfour Road and Cowell Ranch is now covered, or will be, respectively, by a series of subdivisions, presently under construction or approved. This will lead to vastly different conclusions with regard to the visibility of proposed Cowell Ranch land uses, namely that they will be invisible.

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Recommendation: The viewsheds and view cones cast from Balfour Road, and as presented in Figures 60 through 62, ignore the above-mentioned facts, and should be revised or editorially explained. Conclusions drawn with regard to visual impacts should be revisited.

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View 4: DEER VALLEY ROAD CORRIDOR

Figure 63 (View cone)

View 5: CAMINO DIABLO-MARSH CREEK ROAD CORRIDOR

Figure 64 (View cone)

View 6: CAMINO DIABLO WEST OF VASCO ROAD

Figure 65 (Viewshed)

Deer Valley Road and Camino Diablo/Marsh Creek Road are "scenic corridors" with low to medium traffic volumes, and are - as has been mentioned above - travelled by and large by small vehicles rather than trucks and buses. Therefore, the view cones should assume a viewing height range of 4 feet (sedan) to 5 (SOV) feet, rather than 6 to 10 feet. This will lead to different conclusions with regard to the visibility of proposed Cowell Ranch land uses.

84.64

Recommendation: The viewsheds and view cones cast from Deer Valley Road and Camino Diablo/Marsh Creek Road, and as presented in Figures 63 through 65, would yield different results under different assumptions, and should therefore be adjusted or editorially explained. Viewsheds rather than view cones should be applied because the former can be more accurately kept to a viewing height of 4 to 5 feet. Conclusions drawn with regard to visual impacts should be revisited.

View 7: WALNUT BOULEVARD-VASCO ROAD CORRIDOR

Figure 66 (View cones)

The view cones cast from the Walnut Boulevard-Vasco Road corridor appear to operate with a presently correct viewing height assumption of up to 10 feet. However, as soon as SR 4 will carry the vast amount of north-south truck and bus traffic, the Walnut Boulevard-Vasco Road corridor will likely change to the role of collector roads, carrying in the main sedans and SOVs. This would lead to very different conclusions with regard to the visibility of proposed Cowell Ranch land uses.

84.65

Recommendation: Depending on the respective SR 4 and proposed Cowell Ranch development time tables, the view cones cast from the Walnut Boulevard-Vasco Road Boulevard, as presented in Figure 66, may require adjustment or editorial explanation with regard to a viewing height range of 4 feet (sedan) to 5 (SOV) feet, rather than the assumed one. Conclusions drawn with regard to visual impacts should be revisited to reflect future conditions and time tables.

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View 8: MARSH CREEK ROAD CORRIDOR
Figure 67 (View cones)

The view cones cast from the Marsh Creek Road corridor, as presented in Figure 67, has a north-south and an east-west section. The north-south section of the road is proposed to be closed under the Cowell Ranch General Plan Amendment, and become a hiking trail. The east-west section is an approach road toward the proposed Cowell Ranch North Village. This section of the road cuts through an area slated to remain an Agricultural Preserve. Thus, the large orchards lining the road will presumably remain. The northern side is presently a mature orchard of more than 10 feet height, and, while the southern side's orchard is only about 6 feet high, it will likely be mature by the time the Cowell Ranch Community would come into being.

84.66

Recommendation: The viewsheds and view cones cast from Marsh Creek Road, as presented in Figure 67, misrepresent the existing and future conditions. The analysis would obviously yield very different results under corrected assumptions, and should therefore be adjusted or editorially explained. Conclusions drawn with regard to visual impacts should be revisited.

View 9: THE PROPOSED SR 4 BYPASS
Figure 68 (View cones)

The view cones cast from the projected SR 4 Bypass, as presented in Figure 68, would look markedly different if the Cowell Ranch community would be lined by berms and landscaped fences along the SR 4 route, as proposed by the applicant. This proposal came too late for the computer consultant to be factored in.

84.67

Recommendation: In view of the above proposal change Figure 68 should be updated, or be amended editorially. Conclusions drawn with regard to visual impacts should be revisited.

View 10: ROUND VALLEY REGIONAL PARK

Figure 69 (Viewshed)

View 11: MORGAN TERRITORY REGIONAL PRESERVE

Figure 70 (Viewshed)

The viewsheds cast from Round Valley Regional Park and Morgan Territory, as presented in Figures 69 and 70, show large areas of dark grey, without clearly identifying how many of those are related to the proposed Cowell Ranch General Plan Amendment, how many of them are related to future dedicated open space, and how many are due to existing subdivisions, or those under construction or approved. Generally, these graphic displays may be misinterpreted by some readers to mean that the Cowell Ranch General Plan Amendment produces visual impacts that are considerably larger than would actually be the case.

Recommendation: In order to enhance their utility the viewsheds cast from Round Valley Regional Park and Morgan Territory Regional Preserve should more clearly outline the Cowell Ranch property and equally clearly indicate which sections of the grey values are indeed related to the proposed Cowell Ranch residential/commercial land uses, and which ones are not. Supportive photography with superimposed future conditions would be most helpful.

84.68



PHOTO - A Balfour Road/Looking southwest toward project



PHOTO - B Balfour Road at Fairview Avenue/Looking south toward Project



PHOTO - C

Walnut Blvd. between Marsh Creek Road and Kellogg
Creek side channel/Looking west toward Project



PHOTO - D

Old Vasco Road/Looking west at Eastern Project
Boundary



PHOTO - E

Intersection of Marsh Creek Road and Camino Diablo/
Looking North-Northwest toward Planning Areas 31 & 32

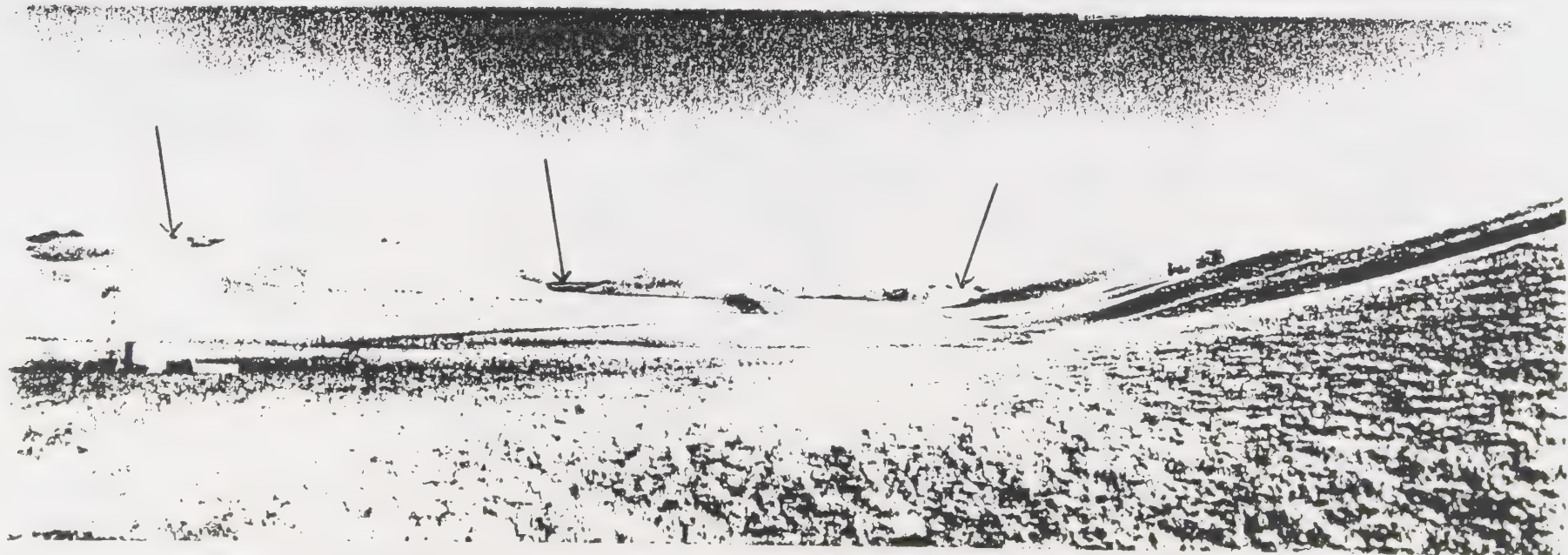


PHOTO - F

Deer Valley Road/Looking East into Briones Valley
toward Planning Areas 31 & 32, 52 and 3



COWELL RANCH

CONTRA COSTA COUNTY
CALIFORNIA

S.H. COWELL FOUNDATION
OWNER

LOUISE RICE - LAWSON
LAND USE CONSULTANT

G.L. SZABO & ASSOCIATES
LAND PLANNERS

CARLSON, BARBEE & GIBSON, INC.
CIVIL ENGINEERS

LEGEND

		ACRES	SQFTS
<input type="checkbox"/> SL	SINGLE FAMILY RESIDENTIAL - LOW 1.5-2.5 DU/NET AC	361.1	65
<input type="checkbox"/> SM	SINGLE FAMILY RESIDENTIAL - MEDIUM 3.0-4.5 DU/NET AC	129.0	365
<input type="checkbox"/> SH	SINGLE FAMILY RESIDENTIAL - HIGH 6.0-7.5 DU/NET AC	273.0	1,329
<input type="checkbox"/> ML	MULTI-FAMILY RESIDENTIAL - LOW 7.5-11.0 DU/NET AC	232.3	1,763
<input type="checkbox"/> MM	MULTI-FAMILY RESIDENTIAL - MEDIUM 12.0-20.0 DU/NET AC	18.0	228
<input type="checkbox"/> MH	MULTI-FAMILY RESIDENTIAL - HIGH 21.0-25.0 DU/NET AC	90.0	1,300
<input type="checkbox"/> CO	COMMERCIAL/RETAIL	44.9	
<input type="checkbox"/> BP	BUSINESS PARK	78.9	
<input type="checkbox"/> PS	PUBLIC/SEMI PUBLIC CIVIC, CHURCH, SCHOOLS, ETC.	84.2	
<input type="checkbox"/> PR	PARKS AND RECREATION NEIGHBORHOOD PARK COMMUNITY PARK	80.0	
<input type="checkbox"/> OS	OPEN SPACE MAJOR ROADS ARTINALS AND COLLECTORS	3,977.1	190.7
TOTALS		4,277.8	5,810

 PROPOSED RESERVED HIGH
SCHOOL SITE - 40 acres

REVISED 1/15/97
PROPOSED
GENERAL PLAN
AMENDMENT MAP

COWELL RANCH

CONTRA COSTA COUNTY
CALIFORNIA

S.H. COWELL FOUNDATION
OWNER

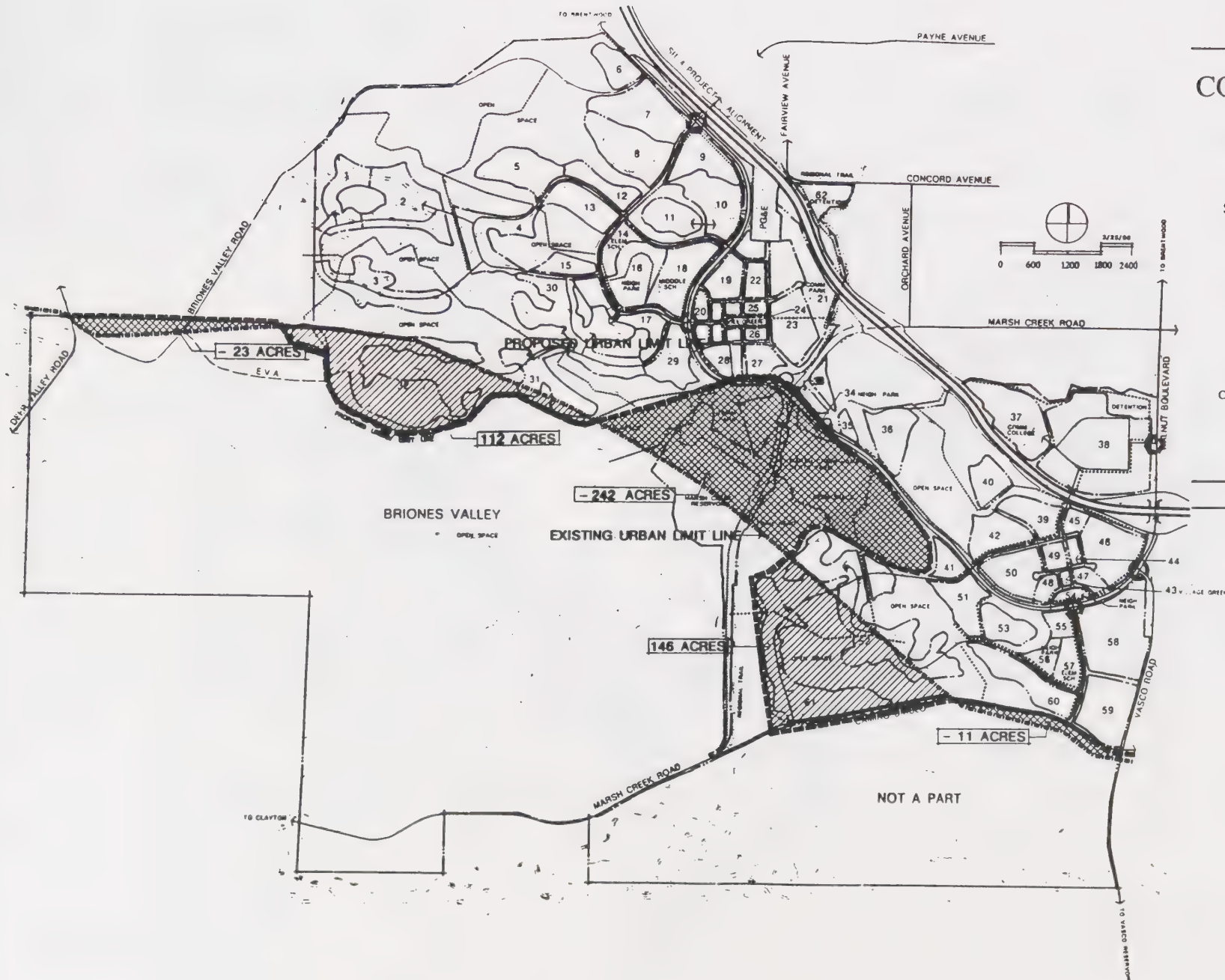
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CIVIL ENGINEERS

LEGEND

REVISED 1/15/97
EXISTING AND
PROPOSED
URBAN LIMIT
LINE



COWELL RANCH

CONTRA COSTA COUNTY
CALIFORNIA







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LAND PLANNERS

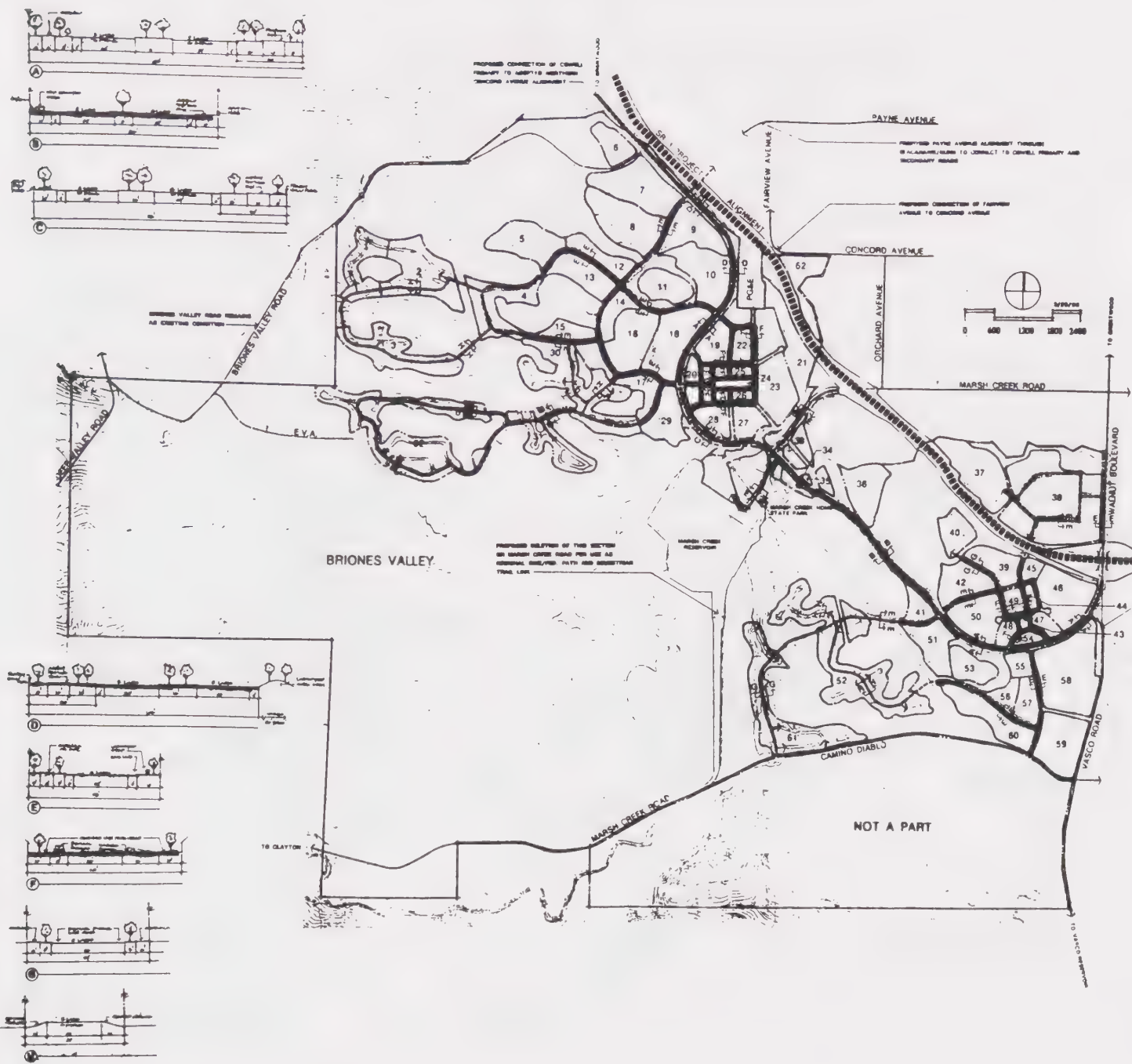
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CIVIL ENGINEERS

LEGEND

-  PRIMARY COMMUNITY ENTRY
-  SECONDARY COMMUNITY ENTRY
-  REGIONAL TRAIL
-  PEDESTRIAN, BICYCLE AND
HIKING TRAIL SYSTEM
-  PLANNING AREA BOUNDARY
-  PLANNING AREA NUMBER



REVISED 1/15/97
PROPOSED
DEVELOPMENT
PLAN



COWELL RANCH

CONTRA COSTA COUNTY
CALIFORNIA

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CIVIL ENGINEERS

PROPOSED CONTRIBUTION OF COWELL
SITE COWELL PRIMARY ROAD AND
TERMINATION OF VALDES AT PRIMARY

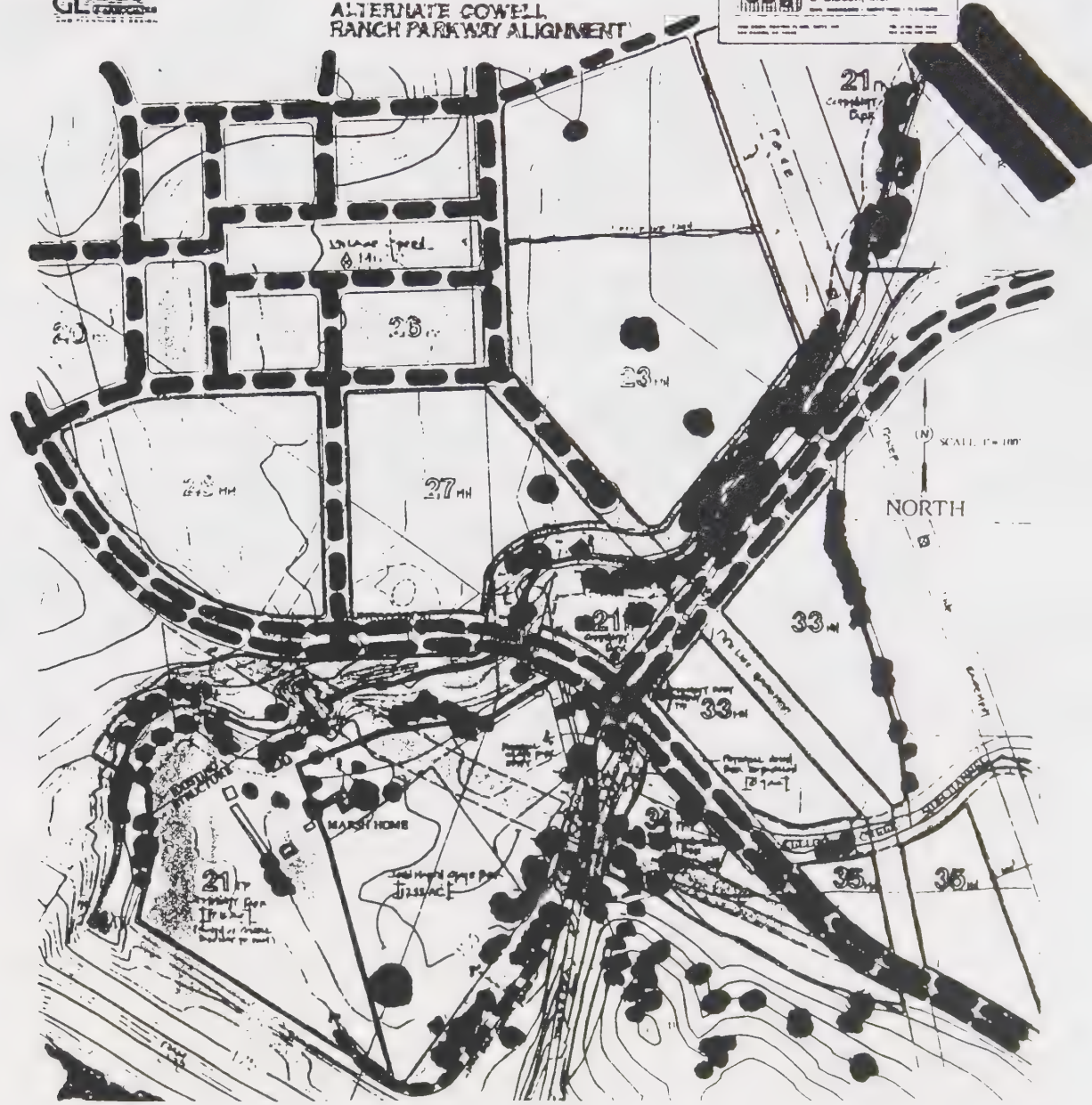
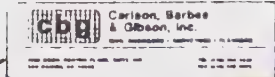
LEGEND

- SR-4 PROJECT ALIGNMENT
- NEW PRIMARY ROADS (ARTERIALS)
- NEW SECONDARY ROADS (COLLECTORS)
- NEW LOCAL ROADS
- ROAD SECTIONS

REVISED 1/15/97
CIRCULATION



COWELL RANCH ALTERNATE COWELL RANCH PARKWAY ALIGNMENT



COMMENTS OF
PLUMBERS AND STEAMFITTERS
U.A. LOCAL 159,
INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 302 AND
INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL
& ORNAMENTAL IRONWORKERS, LOCAL 378
ON THE DRAFT
ENVIRONMENTAL IMPACT REPORT FOR THE
COWELL RANCH PROJECT GENERAL PLAN AMENDMENT
AND RELATED ACTIONS

March 19, 1997

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I. INTRODUCTION

The Plumbers and Steamfitters Union, U.A. Local 159, the International Brotherhood of Electrical Workers, Local 302, the International Association of Bridge, Structural & Ornamental Ironworkers Union, Local 378, Stanley Kalinowski, Leland DeFrates and Eugene Gifford submit the following comments on the Draft Environmental Impact Report ("DEIR") for the Cowell Ranch General Plan Amendment, rezoning, and related entitlements.

The Unions and their members are interested in sustainable economic development. Continued environmental degradation may jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in California, and by making it less desirable to live here. Continued degradation can, and has, caused construction moratoriums and other restrictions on growth which, in turn, reduce future employment opportunities.

Additionally, construction workers themselves live in the communities which suffer the impacts of environmentally detrimental projects. Union members breathe the same polluted air that others breathe, and suffer the same health and safety impacts. Unions have an interest in enforcing environmental laws to protect these workers.

Construction workers are concerned about projects which cause serious environmental harm without providing countervailing economic benefits such as decent wages and benefits. The California Environmental Quality Act ("CEQA")¹ itself provides a balancing process where economic benefits are weighed against significant impacts on the environment.

These comments discuss the environmental issues posed by the Cowell Ranch project. They are supported by the expert analyses of Dr. Karen Weissman, Dr. William Lettis, and Daniel T. Smith, Jr., P.E. which are attached to these comments and incorporated herein by reference.

In submitting these comments, the Unions and the above-named individuals emphasize that they appreciate the difficulty of preparing an environmental impact statement/report on such a complex and long-term project. However, the DEIR does not comply with the most basic purposes and requirements of CEQA as set forth below. The DEIR should be revised and recirculated for public comment.

85.01

¹ Public Resources Code § 21000 et seq. Unless otherwise indicated, all further statutory references are to the Public Resources Code.

A. Requirements of CEQA

An Environmental Impact Report ("EIR") is an informational document. (*Laurel Heights Improvement Ass'n v. Regents of the University of California* ("Laurel Heights I") (1988) 47 Cal.3d 376, 392 [253 Cal.Rptr. 426].) Two key functions of an EIR are to identify and describe every significant impact of a project, and propose feasible mitigation for each impact, if such mitigation exists. (§§ 21002.1, 21100(a); *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1229 [32 Cal.Rptr.2d 19].) This allows the public to review and comment on the impacts and proposed mitigation measures, and provides the agency with a basis for making findings to support its decision on the project. (*Sierra Club*, 7 Cal.4th at p. 1229.)

The stated purpose of the Cowell Ranch DEIR is to analyze all environmental impacts associated with the project, from general plan amendment to final development plan approval to issuance of land use permits. (DEIR, pp. III-41 to -49.) The DEIR provides:

The purpose of this Master EIR is to assess the potential environmental impacts of all aspects of the proposed entitlements. The EIR assumes that all future approvals will be granted and that full development will occur in a manner consistent with the currently proposed project. This assumption ensures that the fullest environmental review is achieved as early as possible in the process, a major goal of CEQA, and not deferred until later approvals. (DEIR, p. III-44.)

This statement is consistent with the fundamental purpose of CEQA, which is to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." (*Laurel Heights Improvement Ass'n v. Regents of the Univ. of California* ("Laurel Heights II") (1993) 6 Cal.4th 1112, 1123 [26 Cal.Rptr.2d 231].) The DEIR falls short of its goals, however.

Although the DEIR identifies many project impacts, it fails to analyze several other potentially significant impacts. It also fails to develop adequate mitigation measures. Instead, in many areas, the analyses of impacts and design of mitigation are deferred until after the EIR is certified and the project approved. This deprives both the public and the County of the information to which they are entitled, and violates CEQA. The DEIR certainly does not fulfill its stated purpose of providing full environmental review early in the process.

85.01

B. Requirements for a Master EIR

The DEIR states that it is a "master" EIR, prepared pursuant to the provisions of section 21156, et seq. (DEIR, p. I-2.) However, the DEIR does not comply with the requirements for a master EIR.

A master EIR must contain a description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master EIR (§ 21157(b)(3)). In the absence of this information, the County cannot grant approvals which cause impacts whose significance is unknown and for which mitigation measures have not been proposed or implemented. A master EIR "shall" include the capital outlay or capital improvement program or other scheduling or implementing device that governs the submission and approval of subsequent projects. (§ 21157(b)(2)(D).)

If a master EIR complies with the requirements of CEQA, further environmental review of subsequent projects is severely limited. Section 21157.1(c) provides that if a proposed subsequent project will have no additional significant effect on the environment that was not identified in the master EIR and if no new or additional mitigation measures or alternatives are required, no new environmental document or findings are required. For a subsequent project, the agency must incorporate all feasible mitigation measures or feasible alternatives set forth in the master EIR.

A master EIR which has been certified more than five years prior to the filing of an application for a subsequent project may not be used for that project unless the agency finds that no substantial changes have occurred regarding the circumstances after the master EIR was certified or no new information has become available, or unless the agency prepares a subsequent or supplemental EIR. (§ 21157.6.)

If additional environmental review is required, an agency may use a focused EIR only if the agency finds that the analysis in the master EIR of cumulative impacts, growth inducing impacts and irreversible significant effects on the environment is adequate for the subsequent project. (§ 21158(a).) A focused EIR need not examine environmental effects which were examined at a sufficient level of detail in the master EIR to enable those effects to be mitigated or avoided. (§ 21158(b)(2).)

1. Level of Detail Required

A master EIR must contain the same detailed statement of environmental impacts, mitigation measures and alternatives as is

85.02

required for a project EIR (§ 21157(b)(1)), as well as sufficient information about subsequent projects (§ 21157(b)(2)).

CEQA requires that the level of detail to be set forth in the EIR depends upon the type of project which is being approved. Section 15146 of the CEQA Guidelines provides:

"The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption, or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow."

Here, the applicant is seeking amendment of a general plan, and an EIR on a general plan amendment does not require as much detail as an EIR on the specific construction projects that might follow. However, the applicant here is also seeking a development agreement and a planned unit development. The DEIR further states that "this EIR includes all projects or actions that are necessary to fully implement the Cowell Ranch Project." (DEIR, p. III-49.) The DEIR states that it includes "within its scope" final map approvals, grading permits and building permits. (*Ibid.*)

Thus, the applicant is seeking approvals that are specific and is intending that this EIR cover all approvals necessary to implement its project. Therefore, the EIR requires more detail than a general plan amendment EIR. However, that detail is lacking in this EIR, and consequently, those approvals cannot be granted until adequate detail is provided.

2. Inadequacy of DEIR

There are numerous environmental impacts for which the DEIR is unable to provide adequate information and for which mitigation measures have not been developed. Yet, instead of acknowledging the lack of information as required by section 21157(b)(3), the DEIR continually states that additional information will be obtained and that appropriate mitigation

85.02

measures will be required. (See, e.g., the discussion of soils and geology, DEIR, p. IV.D-37-39, 41, 43-45, 48-52.) This does not meet the requirement of CEQA that a master EIR must describe significant impacts and propose mitigation measures. Nor does it meet the requirement that a master EIR must identify potential impacts for which there is not sufficient information available.

There is no basis for the DEIR's claims that requiring analysis and development of mitigation measures in the future supports a conclusion that these impacts have been mitigated to a less-than-significant level. The statements in the current DEIR appear to be an effort to avoid both present and future environmental review of some of the potentially significant impacts of the project. (See, for example, the discussion of soils and geology in these comments.)

For each of these areas, the master EIR should delete the proposed finding that the impact has been mitigated to insignificance and should, instead, state that there is not sufficient information reasonably available to support a full assessment of the impacts.

85.02

In the absence of sufficient information, the DEIR cannot support project approval. The lack of sufficient information in the DEIR is such that it cannot support approval for a general plan amendment, a planned unit development, rezoning or a development agreement.

If the DEIR is revised to provide additional, but still general, information about environmental impacts, then the DEIR must contain a description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master EIR (§ 21157(b)(3)).

A revised EIR will not support approval of a development agreement, a planned unit development or rezoning unless it contains project-level information about impacts and proposed mitigation measures. A revised EIR may support approval of a general plan amendment, if it contains sufficient information to support such an approval.

The DEIR does not include the capital outlay or capital improvement program or other scheduling or implementing device that governs the submission and approval of subsequent projects. Without that information, it fails to comply with section 21157(b)(2)(D), and a master EIR cannot be used for this project.

C. Mitigation Measures

1. Duty to Investigate Impacts and Propose Mitigation Measures

CEQA requires an agency to identify and develop mitigation measures for all significant impacts. CEQA recognizes that an agency will have to engage in research and investigation to identify significant impacts of a project and to develop mitigation measures. These are the obligations imposed by the Legislature to carry out the state environmental policies set forth in CEQA.

Thus, the Guidelines provide that "Drafting an EIR ... necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." (Guidelines § 15144.) Similarly, in discussing an inadequate analysis of cumulative environmental impacts, the court commented, "assuming a sophisticated technical analysis was not feasible, if some reasonable, albeit less exacting analysis of the onshore impact ... could be performed, the County was required to do so and report the results." (*Citizens to Preserve the Ojai* (1985) 176 Cal.App.3d 421 at 432 [222 Cal.Rptr. 247 at 253].)

Drafting an EIR requires extensive research and information-gathering. "Conclusory comments in support of environmental conclusions are generally inappropriate." (*Laurel Heights I*, *supra*, 47 Cal.3d at 404 [253 Cal.Rptr. at 438].) "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." (*Id.*, 47 Cal.3d at 404 [253 Cal.Rptr. at 439], quoting *Concerned Citizens of Costa Mesa v. 32nd Agricultural Assn.* (1986) 42 Cal.3d 929, 935 [231 Cal.Rptr. 748, 751].)

The courts have required agencies to conduct research and investigations. In *Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 308 [248 Cal.Rptr. 352, 360], a developer was required to develop a program for disposal of sludge from its project. In *Mountain Lion Coalition v. Fish & Game Commission* (1989) 214 Cal.App.3d 1043 [263 Cal.Rptr. 104], the trial court ordered the defendant Fish & Game Commission to conduct research for an EIR on allowing hunting of mountain lions. The court required the agency to "include data generated from meaningful research," to support its analysis with "references to specific scientific and empirical evidence," to analyze the "potential of repeated hunting to cause genetic isolation, genetic depression, and damage to the social structure of individual populations and the statewide population," and to "develop more specific information on the impacts resulting from the loss of even a few individual lions on those lions' social groups." (*Id.*, 214

Cal.App.3d at 1047-48 [263 Cal.Rptr. at 106-107].) The EIR, which failed to provide this information, was held to be inadequate.

An agency cannot limit itself to previously developed information when preparing an EIR, unless that information is adequate to disclose environmental impacts and to mitigate significant impacts. Instead, an agency is required to make reasonable efforts to develop information. "The agency should not be allowed to hide behind its own failure to gather relevant data." (*Sundstrom, supra*, 202 Cal.App.3d 296, 311 [248 Cal.Rptr. 352, 361].) An EIR "must identify ways to mitigate or avoid the significant effects that a project may have on the environment ...". (Guidelines § 15126(d)(1).)

85.03

The DEIR must evaluate the feasibility of mitigation measures that are proposed. In *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727-28 [270 Cal.Rptr. 650], the court held that "the failure to evaluate whether the [mitigation measure] was feasible ... was fatal to a meaningful evaluation by the [agency] and the public."

As discussed below, the EIR fails to identify ways to mitigate the project's environmental impacts, to evaluate the feasibility of proposed mitigation measures, or to state that there is not enough information to do so, is a plain violation of CEQA.

2. Mitigation Measures Must Be Enforceable

CEQA requires that mitigation measures must be enforceable. Section 21081.6(b) provides that:

A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.

85.04

Here, there is no proposal for making any of the suggested mitigation measures enforceable if the site is annexed to the City of Brentwood.

The DEIR should state that if the site is annexed to Brentwood before it is fully built-out, the significant impacts of the project would remain unmitigated unless Brentwood adopts mitigation measures.

II. PROJECT DESCRIPTION

A. Absence of Development Agreement

The County's proposed action includes approving a Development Agreement. However, the DEIR does not describe the terms of the proposed Development Agreement. In the absence of information about the terms of the Agreement, it is not possible to determine whether the proposed Agreement may have additional significant impacts on the environment. Without this crucial information, there is no basis for determining that the proposed Agreement will not have a significant impact on the environment.

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For example, the County's General Plan states that "Large-scale residential projects requesting a Vesting Development Agreement should provide a minimum of 25 percent of the units for moderate income households, or 10 percent for low income." (Contra Costa County General Plan Housing Element, p. 6-110, Program 2.12.) Because the terms of the proposed Development Agreement are not disclosed, it is not possible to determine whether it is consistent with the General Plan. If it is not consistent, then it has a significant impact on the environment, and the project may not be approvable.

B. Further Approvals Needed

The DEIR should state clearly what additional approvals will require further environmental review. The DEIR states that if the current approvals are granted, the applicant must in the future receive the following approvals from the County: final development plans, subdivision maps, lot line adjustments, minor parcel maps, approval of financing districts, land use permits for some uses, architectural and site plan review, grading and building permits, infrastructure improvement plans, and "other approvals." (DEIR, p. III-44.)

The DEIR does not contain enough detail to support the approvals which are currently being sought, much less the listed future approvals. The DEIR should state that all, or some, of these approvals will be subject to further environmental review. The DEIR should also specify what the "other approvals" are.

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Similarly, if the site is annexed to the City of Brentwood, the DEIR states that further approvals will be required. (DEIR, p. III-45.) These should be specified in more detail, and those that will be subject to further environmental review should be identified.

The DEIR lists other agencies which must approve various portions of the project. (DEIR, p. III-45.) The DEIR should state whether any additional environmental review will be required before those approvals are granted. Two of the agencies

are federal agencies, and the DEIR should state whether these agencies will prepare their own environmental documents pursuant to NEPA or other applicable federal statutes.

The DEIR should also explain further what is meant by the statement that "Indirect source permits from the BAAQMD may be required for all or portions of the development under new regulations." (*Ibid.*) The DEIR should describe the new regulations and their applicability to the project.

The DEIR must discuss the potential environmental impacts of all aspects of the project. The DEIR lists numerous anticipated "subsequent projects." (DEIR, p. III-46-49.) If the Master EIR is intended to apply to all of these projects, and apparently it is (DEIR, p. III-49), then the DEIR must provide a level of detail about environmental impacts and mitigation measures that is equivalent to the level of detail needed to obtain all of the listed approvals. Otherwise, the Master EIR must state that there is not sufficient information about these impacts and mitigation measures, and the information will be provided and considered prior to granting of any of the listed approvals.

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III. LAND USE

A. Planned Unit Development; Development Plan

The project includes an application for rezoning to planned unit district and an application for approval of a preliminary development plan. (DEIR, p. III-12, 16.) According to the Contra Costa County Code, the rezoning and preliminary development plan can be approved only if the County is satisfied that "The proposed planned unit development is consistent with the county general plan." (Contra Costa County Code § 84-66.1406.)

The proposed project is not consistent with numerous sections of the County's General Plan, and the DEIR should discuss this issue. The following are examples of provisions with which the project is not consistent.

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The General Plan contains a policy requiring that areas experiencing rapid urban growth shall be developed so as to provide a balance of new residential and employment opportunities. (DEIR, p. IV.A-26.) Yet, the DEIR states that this project, even as planned, will not provide such a balance. (DEIR, Table 11, p. IV.A-58.) Additionally, there is no evidence to support a conclusion that such a balance could be attained.

The General Plan contains a policy that new development may be approved within the unincorporated areas providing growth management standards and criteria are met. (DEIR, p. IV.A-26.) The County Code provides that the County shall allow new

development only when infrastructure and service standards are met for traffic levels of service, water, sanitary sewer, fire protection, public protection, parks and recreation, flood control and drainage and other such services. (County Code § 82-1.012.) The DEIR should discuss whether the project can be designed to be consistent with this requirement.

The General Plan flatly states that, "Proposals that would prematurely extend development into areas lacking requisite services, facilities and infrastructure shall be opposed." (DEIR, p. IV.A-26.) The project site lacks such services, facilities and infrastructure, and approval of the project is inconsistent with this policy.

The General Plan further provides, "the County shall not designate land located outside the ULL for an urban land use" and that "Urban development in the future shall take place within the Urban Limit Line and areas designated by this plan for urban growth." (DEIR, p. IV.A-26, 27.) The project seeks to designate lands outside of the ULL for urban land use, and provides no basis for modifying the ULL. Hence, it is not consistent with this provision of the General Plan.

The Contra Costa County General Plan provides that hillsides with a grade of 26 percent or greater shall be protected through appropriate actions (DEIR, p. IV.D-24), yet the DEIR states that 23 acres of land with slopes greater than or equal to 26 percent are proposed to be graded and developed (DEIR, p. IV.D-45).

The General Plan also states that slope stability shall be a primary consideration in the ability of land to be developed or designated for urban use and that proposed extension of urban or suburban land uses into areas characterized by slopes over 15% and/or generally unstable land shall be evaluated with regard to the issuance of any discretionary approvals (DEIR, p. IV.D-25), yet the DEIR provides no information about whether any slopes proposed for development are greater than 15% (other than the 23 acres which have slopes greater than 25%) and has not adequately investigated and considered the problem of slope stability.

The General Plan further states that approvals of private development projects in areas subject to slope failures shall be contingent on geologic and engineering studies which define and delineate potentially hazardous conditions and recommend adequate mitigation. (DEIR, p. IV.D-25.) Yet, the DEIR postpones such studies until after project approval.

The General Plan states that generally, residential density shall decrease as slope increases, especially above a 15% slope. (DEIR, p. IV.D-25.) However, the DEIR provides no information as to whether the project complies with this requirement.

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The General Plan states that significant hillsides with slopes over 26% or more shall be considered unsuitable for types of development which require extensive grading or other land disturbance. (DEIR, p. IV.D-26.) Yet, the DEIR states that 23 acres of land with slopes greater than or equal to 26 percent are proposed to be graded and developed. (DEIR, p. IV.D-45.)

The General Plan states that development shall be precluded in areas where landslides cannot be adequately repaired. (DEIR, p. IV.D-26.) Yet, the DEIR provides no information as to whether the potential landslides can be repaired. Consequently, the applicant is seeking approval of development without the County knowing whether the development is consistent with this policy.

In light of these inconsistencies and uncertainties, approval of the application for a rezoning and preliminary development plan would violate the Contra Costa County Code.

In addition, the rezoning and development plans can be approved for commercial development only if the commercial development is needed at the proposed location and traffic congestion will not likely be created. (County Code § 84-66.1406(4).) However, there is no evidence or information in the DEIR showing that the commercial development is needed. As to traffic, the DEIR shows that traffic congestion will be created by this project, because levels of service which are already unacceptable will be further impacted by project traffic. (DEIR, p. IV.C-71, Table 26, as discussed further in the Air Quality section of these comments.) The DEIR should discuss the project's inconsistency with these requirements.

B. General Plan Amendment to Urban Limit Line

The project includes a modification to the urban limit line as "part of the general plan amendment application." (DEIR, p. III-12.) According to the Contra Costa County Code, the urban limit line can be adjusted by a four-fifths vote of the board of supervisors after making one of several specified findings. None of the findings would be supported by any evidence in the DEIR. The DEIR should discuss the project's inconsistency with these requirements.

C. 65/35 Land Use Requirement

The DEIR mentions the County's 65/35 land preservation standard (DEIR, p. IV.A-25), but does not provide any information about how the project will affect the requirement that 65% of the land in the County is to be preserved as agricultural land, open space, wetland, parks and/or other urban uses. Although this project may itself achieve a 65/35 balance within its own boundaries, there is no discussion of whether the County as a

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whole has achieved a 65/35 balance or the impact of this project on the County's ability to achieve and maintain that balance.

Nor does the DEIR provide any information as to how it was determined that 30% of this project will be developed for urban uses and 70% designated as open space. (DEIR, p. IV.A-32.) The DEIR should provide detailed information so that the public and decision-makers can see which acreage was included as urban uses and which was included as open space. For example, the DEIR shows that "major roads" were included as urban uses. (DEIR, p. III-18.) Were "minor roads" also included as urban uses? The DEIR appears to count the 85-acre golf course as "open space." (DEIR, p. IV.A-33.) Were other recreational uses counted as open space?

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D. Infrastructure

The Contra Costa County Code provides that the County shall allow new development only when infrastructure and service standards are met for traffic levels of service, water, sanitary sewer, fire protection, public protection, parks and recreation, flood control and drainage and other such services. (County Code § 82-1.012.) The DEIR should discuss the project's inconsistency with this requirement.

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E. Annexation to Brentwood

The DEIR mentions that annexation to Brentwood is a future possibility. (DEIR, p. III-45.) If the site is annexed to Brentwood, then any County approvals and mitigation measures would not be binding on the City of Brentwood.

The DEIR should explain why approvals are being sought, environmental review is being conducted and mitigation measures proposed while the site is still in the County. If the project is annexed to Brentwood before it is built-out, then Brentwood could impose different requirements and mitigation measures. A great deal of public time and money is being spent on the project while it is in the County, and that money could be wasted if the project is later annexed to Brentwood.

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The DEIR should state that if the project is annexed to Brentwood, the significant impacts of the project could remain unmitigated, because the County has no authority to require Brentwood to adopt or honor mitigation measures in this EIR.

F. Jobs Housing Balance

The DEIR does not provide any basis for concluding that the project can achieve a jobs/housing balance. The ABAG projections show that Contra Costa County will continue to have a larger number of employed residents than jobs, so that some County

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residents will commute outside the County to their jobs. (DEIR, p. IV.A-3.)² If the project seeks to provide a better jobs/housing balance than the County as a whole, then the reasons for the current imbalance must be discussed, so that adequate mitigation measures can be imposed to ensure that the project does improve the jobs/housing balance.

The DEIR does not discuss the reasons for the imbalance. Instead, it simply sets forth the evidence of the imbalance. The DEIR shows that the East County currently includes approximately 23% of all County residential development, and only 12% of all County jobs. (DEIR, p. IV.A-7.) Currently, 81% of all East County jobs are located in the Pittsburg-Antioch area. (*Ibid.*) There is no discussion of the reasons for these distributions. If jobs are located in the West County because it is closer to transportation (freeways, airports) and other large economic centers (Oakland, San Francisco) and if the East County jobs are located in the Pittsburg-Antioch area because it is close to transportation (SR 4, I-680, I-80, the Sacramento River), then it may not be realistic to believe that jobs can be located at Cowell Ranch, which is farther away from these transportation corridors and economic centers.

Additionally, the DEIR notes that the subregion, including adjacent areas in San Joaquin County, has provided an enormous amount of housing for commuters working in the Bay Area. (DEIR, p., IV.A-7.) There is no information in the DEIR to support the idea that employment centers will locate in the Cowell Ranch area when they can locate in the Bay Area and still attract employees.

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In fact, the DEIR notes that East County residents will still continue to commute beyond the East County to their jobs even if the jobs/employed resident ratio improves as projected by ABAG. The ratio is only projected to improve from 0.42 jobs per employed resident in 1992 to 0.52 jobs per employed resident in 2015. (DEIR, p. IV.A-8.)

Further, the DEIR notes that other recently approved large subdivisions in the Brentwood area have incorporated commercial and business center components. The DEIR specifically lists 233 acres of such components. (DEIR, p. IV.A-15, 16.) Cowell Ranch proposes an additional 122 acres of commercial/office and business park uses. (DEIR, p. III-18.) There is no indication in the DEIR of how these proposed uses will compete with each other and which (if any) are likely to be successful at

² Estimates of job growth in Table 8 for the year 2010 are provided by the Contra Costa Transportation Authority, rather than ABAG. (DEIR, p. IV.A-4.) There is no indication of the source or basis for these estimates, and such information should be provided.

attracting employers for local residents. The DEIR should include an area-wide marketing study to determine whether the area can attract enough employers for all of the potential employed residents.

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In the absence of additional information, there is no basis for concluding that the project's impacts on the jobs/housing balance can be mitigated.

G. Kellogg Creek Sand Quarry

The DEIR notes that the 25-acre Kellogg Creek Quarry is located opposite the project site, and that high-density single family residential uses will be located as close as 900 feet to the quarry. (DEIR, p. IV.A-54.) The DEIR notes that dust from the quarry could cause a potentially significant impact. (Ibid.) Yet, the DEIR suggests absolutely no measures to mitigate the impact of dust. Nonetheless, the DEIR concludes that the impact would be mitigated to a less-than-significant level. (Ibid.) As to dust, there is no basis for such a conclusion.

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Further, there is no mention of the cumulative impact created by the Byron Sand Quarry, one mile to the southwest of Camino Diablo and the proposed reopening of the sand quarry on the site. The cumulative impacts of these three quarries must be analyzed and mitigation measures proposed.

H. Underground Pipelines

The DEIR states that the site contains several underground natural gas pipelines and one petroleum gas pipeline. (DEIR, p. IV.A-24.) However, there is no discussion of whether these pipelines will be affected by the proposed development. The DEIR should state whether these pipelines will be moved, will be protected from damage during construction, or will be completely unaffected by the development:

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I. Consistency with Plans and Policies

CEQA requires that an EIR "shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans." (Guidelines § 15125(b).) While the DEIR lists applicable policies in the Contra Costa County General Plan, the Conditions for a 21st Century Community, the Principles and Guidelines for Cowell Ranch, the City of Brentwood General Plan, and ABAG's A Proposed Land Use Policy Framework for the San Francisco Bay Area, it does not discuss whether the proposed project is consistent with any of those plans or policies. This violates CEQA. The DEIR should be revised to discuss that issue.

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As discussed above, the project is not consistent with numerous portions of the Contra Costa County General Plan. In

addition, it is not consistent with the County's *Conditions* for a 21st Century Community. The *Conditions* include providing a community that will be developed in accordance with growth management, transportation and other service and subregional standards. (DEIR, p. IV.A-27.) However, the project is being proposed in an area which lacks infrastructure and will cause traffic congestion. The *Conditions* require that a project provide for a strong affordable housing program for a wide range of household income levels. (*Ibid.*) However, the project does not commit to any affordable housing program. (DEIR, p. IV.A-35.)

Nor is the project consistent with the *Principles*, which provide that "Development of Cowell Ranch or urban uses should occur inside the Urban Limit Line." (DEIR, p. IV.A-27.) The applicant is proposing to develop land which is outside the Urban Limit Line, and is proposing to move the line. This is not consistent with the *Principles*. The *Principles* also state that the project should respect hillside protection policies. (DEIR, p. IV.A.-28.) However, the project proposes developing 23 acres of land with a slope equal to or greater than 26%. (DEIR, p. IV.D-45), which violates the hillside protection policies. Like the *Conditions*, the *Principles* state that the project should strive to attain a range of housing opportunities for a broad segment of the population. (DEIR, p. IV.A-28.) The project does not have an affordable housing component.

The Brentwood General Plan contains some policies with which the project may be inconsistent and others with which the project clearly is not consistent. The DEIR does not discuss whether the project complies with the policy that the maximum number of dwelling units should not exceed two dwelling units per acres, or that a minimum of 40% of Special Planning Area J inside the Urban Limit Line should be designated as open space. (DEIR, p. IV.A-28.) The project is clearly not consistent with the following policies of the Brentwood General Plan: the jobs/housing balance should be a minimum of 1:1,³ employment generating uses should be located adjacent to the planned SR 4 Bypass interchanges, and the area outside the County's ULL should be designated for agricultural, recreational or clustered rural residential uses. (DEIR, p. IV.A-28.)

The project is not consistent with policies in ABAG's *A Proposed Land Use Policy Framework for the San Francisco Bay Area*. These include the policy to direct urban growth where regional infrastructure capacity is available or committed,

³ The DEIR states that the jobs/employed resident ratio is a more accurate measure of the balance between jobs and housing opportunities. With the project, the jobs/employed resident ratio would be 0.62. (DEIR, p. IV.A-41.)

discourage long distance automobile commuting, and establish firm growth boundaries for urban areas. (DEIR, p. IV.A-29.)

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J. Impacts and Mitigation Measures

1. Loss of Open Space

The DEIR states that the loss of open space at Cowell Ranch will contribute to a substantial loss of open space at the subregional level. (DEIR, p. IV.A-33.) However, the DEIR does not state how much open space will be lost at the subregional level. It is not possible to determine the significance of the cumulative loss of open space without that information. The DEIR also concludes that there is no feasible measure to mitigate the loss of open space caused by the project because it is not feasible to create open space. (DEIR, p. IV.A-33.) However, the DEIR should consider whether the applicant should be required to mitigate the loss of open space by purchasing other open space in the subregion and dedicating it permanently to open space uses. In addition, the loss of open space could be mitigated by reducing the size of the project. The DEIR should consider these and other mitigation measures.

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2. Substantial Population Increase

The DEIR states that the project will cause a significant impact because it would cause local population to exceed official regional population projections. (DEIR, p. IV.A-34.) The DEIR should state that this is a significant impact of the project. Instead, the DEIR states that the official regional population projections should be increased and that such an increase would mitigate the impact. That is not a mitigation measure.

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The purpose of the significance standard is to alert the public and decision-makers to the potentially significant impacts of approving a project. The decision-makers should know that if they approve this project, there will be a significant population increase, beyond official projections. This impact should be listed as significant.

The DEIR should also suggest mitigation measures. One mitigation measure which should be discussed is reducing the size of the project.

3. Impact on Regional Housing Need

The DEIR indicates that failure to meet the affordability needs of a range of households and income levels could represent a potentially significant impact. (DEIR, p. IV.A-35.) The DEIR generally proposes that the applicant should submit a plan establishing housing affordability goals in order to mitigate this impact. (DEIR, p. IV.A-36.) However, in the

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absence of a commitment to provide affordable housing, there is no basis to conclude that the impact will be reduced to a less-than-significant level.

Additionally, the DEIR is inconsistent with the County's General Plan. The DEIR does not mention the County General Plan Housing Element statement that "Large-scale residential projects requesting a Vesting Development Agreement should provide a minimum of 25 percent of the units for moderate income households, or 10 percent for low income." (Contra Costa County General Plan Housing Element, p. 6-110, Program 2.12.) The applicant is seeking a development agreement and the DEIR should state whether the development agreement contains provisions for housing for moderate and low income households in accordance with the General Plan. In the absence of information showing that the applicant will comply with this provision of the General Plan, the DEIR should state that the project is not consistent with the General Plan and that the significant impact has not been mitigated.

Further, the DEIR does not provide adequate information about housing need. The DEIR provides information on the County's and Brentwood's share of regional housing needs through 1995, and states that there is no information as to ABAG projections of regional housing need beyond 1995. (DEIR, p. IV.A-30-31, 35.) However, the DEIR does not state whether the County or Brentwood met the 1995 share of regional housing need. If that need was unmet, then the DEIR should discuss whether the Cowell Ranch project meets the need. Further, using the principles specified in California Government Code section 65584, it should be possible for the DEIR to estimate the County's future share of affordable housing, and consider whether this project will help provide that share.

Further, the DEIR notes that without affordable housing, the project may fail to provide strong housing support for the employment components of the project. (DEIR, p. IV.A-36.) Although no further explanation is provided, it appears that without affordable housing, workers in the proposed employment centers will not be able to afford nearby housing. This would further undermine the project's goals of reducing impacts on traffic and air quality through local availability of jobs.

Additionally, the DEIR notes that the Brentwood General Plan establishes policy direction for the site, including that the site should offer a range of housing. (DEIR, p. IV.A-37.) The proposed project is not consistent with this policy direction.

The mitigation measure proposed by the DEIR is not adequate. It defers consideration of the need for low and moderate income housing to the future. Further, the project appears to be inconsistent with the General Plan because there is no evidence

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that the development agreement contains requirements for providing low or moderate income housing. The applicant is seeking approval of a development agreement and that development agreement cannot be approved until it complies with the General Plan. A vague idea that a future plan will be proposed does not comply with the General Plan.

The DEIR should suggest mitigation measures which are feasible, effective and enforceable. Such measures could include requiring that a percentage of the housing be constructed for low and moderate income households. Receipt of future approvals (including building permits) could be conditioned upon meeting these requirements in each phase of the project.

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If the applicant agrees only to submit a plan, and does not make an enforceable specific commitment at this point, then the County may not approve anything beyond a general plan amendment. Approvals of the development agreement, rezoning, development plan and other applications must await a firm, enforceable commitment to provide a specified number of low and moderate income housing units. This is because the EIR must provide a level of specificity equivalent to the approvals being sought. If specific approvals are sought, then equally specific information must be provided.

4. Impacts on Brentwood Planning Area

The project will double the number of dwelling units in existing Brentwood. Together with other approved projects, the number of dwelling units will increase by 239 percent. The total approved or pending commercial/office development would also increase the current total of such development in Brentwood by 239 percent. (DEIR, p. IV.A-37, 38.) The DEIR acknowledges that this is a significant impact. (Ibid.)

However, the DEIR does not adequately address mitigation measures. The DEIR notes that this impact could be mitigated if the project size were substantially reduced and other modifications were made. However, the DEIR finds that this option is not feasible, in part because it would not be consistent with the Brentwood General Plan. (DEIR, p. IV.A-39.) However, the DEIR is internally inconsistent in concluding that inconsistency with Brentwood's General Plan renders mitigation measures infeasible, while also concluding that the project itself is approvable, even though it is inconsistent with the County's General Plan or with Brentwood's General Plan, as discussed in these comments.

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Further, the DEIR does not state how the proposed mitigations would be inconsistent with Brentwood's General Plan, and they do not appear to be inconsistent.

The DEIR should discuss whether the mitigation measures can be implemented while still complying with Brentwood's General Plan. For example, the size of the project could be reduced without violating Brentwood's General Plan policy direction. Similarly, the project could be redesigned to be more of an integral part of Brentwood without violating Brentwood's General Plan.

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5. Jobs/Housing Balance in Brentwood

The DEIR states that the project would not create a significant adverse impact on the jobs/housing balance in Brentwood. (DEIR, p. IV.A-40.) However, the DEIR also notes that simple numerical balance in the jobs/housing ratio does not necessarily indicate that local residents will have the opportunity to work in the community. Other factors play a role, such as the match between job types and local residents' skills and between local job pay and local housing costs. (Ibid.)

However, the DEIR concludes that the jobs/housing balance will be improved by the project, based only on the numerical ratio between the number of estimated jobs and number of employed residents. It does not consider any of the other factors mentioned above. There is no basis for concluding that the impact will be positive in the absence of information about the other factors.

Further, the estimate of available jobs for the year 2010 was made by the Contra Costa Transportation Authority. (DEIR, p. IV.A-4.) There is no explanation of the basis of the estimate, and it should be explained. Additionally, the DEIR does not state whether the project is included in the estimates for Brentwood or in the estimates for Rural Unincorporated East County.⁴ The DEIR seems to assume that the project is not included in either of those estimates. (DEIR, p. IV.A-40.) Nor is there any indication of what other projects are included in the estimates. If the estimates do not include all of the other recently approved or planned projects, then the jobs/housing ratios may not be correct for the future years.

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In the absence of more factual information and analysis, there is no basis in the DEIR for concluding that the project would not cause significant impacts on the Brentwood jobs/employed resident balance.

⁴ If the project is included in the estimate for Rural Unincorporated East County, then the DEIR should explain why the number of jobs decreases between the year 2010 and the year 2015. (DEIR, p. IV.A-4.)

6. Impacts on Commercial Development in Brentwood

The DEIR notes that the proposed commercial uses in the project could compete with downtown Brentwood. (DEIR, p. IV.A-42.) The DEIR then proposes two mitigation measures. One is that zoning should be coordinated to encourage complementary, rather than competing, commercial uses. The other is that a direct transit service should be established between the project and downtown Brentwood. (DEIR, p. IV.A-42.) The DEIR then concludes that these measures would reduce the impact on downtown Brentwood to a less-than-significant level.

There is no basis in the EIR to conclude that these mitigation measures will reduce the impact on downtown Brentwood to a less-than-significant level. As to zoning, the applicant is seeking rezoning approval to planned unit development and has submitted a proposed development plan. If zoning is going to be coordinated, then it must be done as part of the rezoning approval. Yet, the DEIR does not suggest any method of "coordinating" the zoning of the project with that of Brentwood. This mitigation measure is meaningless.

As to shuttle service, there is nothing in the DEIR to show that providing a shuttle service will result in patronage of Brentwood stores by project residents. There is no market analysis, or even a description of the type of stores available at either location (Brentwood or the project). Further, this concept conflicts with one of the purposes of the project, which is to reduce traffic by providing project commercial services so that project residents will shop in the project.

The impacts should be described with more specificity so that additional mitigation measures can be designed and considered. The decision-makers must decide whether there are possible measures to mitigate these impacts or whether the project should be approved despite its significant impacts on Brentwood.

The DEIR must either propose effective measures to mitigate the significant impact on downtown Brentwood, or identify those impacts as significant.

7. Impacts on Non-Retail Commercial and Industrial Development

The DEIR states that the project will attract 1.5 million square feet of non-retail commercial development and approximately 250,000 square feet of industrial development. (DEIR, p. IV.A-43.) The basis for this estimate is, in part, that the site is near affordable housing "in the project and anticipated nearby mixed-use development." (Ibid.) However, the

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project does not contain any affordable housing and the DEIR does not state what "nearby" development contains affordable housing.

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Because that claim forms a basis for the project's ability to attract development, the DEIR must provide information to support the claim. Otherwise, there is no basis for concluding that such business will be attracted to the site.

8. Impacts on John Marsh Home State Park

The project would extend a major thoroughfare through the John Marsh Home State Park. (DEIR, p. IV.A-46.) The DEIR recognizes that this is a potentially significant impact. (Ibid.) However, the DEIR proposes only vague mitigation. The proposal is that the applicant shall provide "greater than" 1:1 compensation for loss of usable park area and shall dedicate a "portion" of the proposed adjoining area to the state. (Ibid.)

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There is no reason that the proposed mitigation cannot be made more specific at this point. The DEIR should propose the amount of mitigation that will be required. If the mitigation is 3:1 compensation, the DEIR should say so, instead of leaving matters so vague. The land to be dedicated should be identified with specificity. As currently worded, the proposed mitigation is unenforceable and does not comply with CEQA.

9. Impacts on Lands South of Camino Diablo

The DEIR recognizes that the project has potentially significant impacts on lands south of Camino Diablo, and proposes mitigation measures. (DEIR, p. IV.A-52, 53.) However, the DEIR does not determine whether the proposed mitigation measures are feasible. Instead, it simply states that if they are not feasible, then the project will cause a significant, unavoidable impact. This does not comply with CEQA. The DEIR should provide enough information to determine whether the proposed mitigation measures are feasible.

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10. Impacts Related to Onsite Sand Mine

The DEIR finds that there would be no significant impacts on the onsite sand mine, because it is no longer in operation. (DEIR, p. IV.A-56.) That statement is inconsistent with the DEIR's proposal that the mine be operated to use the resource. (DEIR, p. IV.H.5.) The DEIR should discuss the impacts of the development on the operating sand mine.

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11. Onsite Jobs/Housing Balance

The DEIR acknowledges that at build out there will be a jobs/housing imbalance on the project site. The DEIR acknowledges that "the project includes no infrastructure,

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marketing, monitoring or enforcement mechanisms to foster a balanced rate of onsite housing and job opportunities during the projected 25-year course of Phase I and Phase II buildout." (DEIR, p. IV.A-57-59.) The DEIR states that a "substantial number of onsite employed residents may commute elsewhere to work to a degree that would be inconsistent with County and City general plan policies calling for a balance of new housing and job opportunities." (DEIR, p. IV.A-57.)

However, the proposed mitigation is not adequate. The DEIR proposes only that the developer submit an Employment Development Program, setting forth goals and plans for achieving them. (DEIR, p. IV.A-57.) If the applicant wants specific approvals, then specific mitigation measures must be proposed. The county cannot approve a rezoning, development plan and development agreement in the absence of enforceable measures to mitigate this impact. Vague, future measures are not adequate when specific approvals are sought.

All of the measures suggested by the DEIR should be developed at this point, and should be included in the requested development agreement. Issuance of building permits should be conditioned on achieving targets for employed residents. Achievement of the targets should not be excused simply because the applicant will not be able to control factors affecting job creation, including regional economic and market cycles, as suggested by the DEIR. (DEIR, p. IV.A-61.)

The problem is that the applicant is creating too much housing, which, in turn causes serious public problems, such as traffic, noise, air pollution and overtaxed public services. If the applicant cannot show that project residents are employed onsite, then no additional housing should be built. The public should not be forced to bear the additional problems caused by too much housing simply because the regional economic and market cycles are such that jobs cannot be created onsite. One purpose of imposing conditions is to avoid problems which are caused when an applicant does nothing beyond responding to market conditions.

The DEIR states that if the onsite jobs are not realized, then "additional transportation and air quality measures could be imposed beyond those recommended" in the EIR. (DEIR, p. IV.A-60.) The DEIR should specify what those additional mitigation measures would be, so that the public and the decision-makers can decide whether they are adequate, and whether they should be imposed at the outset, rather than later.

In order to provide residents access to onsite jobs and services, the DEIR suggests providing an internal transit system. (DEIR, p. IV.A-63.) However, there is no information about who would provide the system or how the future funding would be ensured. This information should be provided so that the

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decision-makers can determine whether this is an adequate mitigation measure.

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12. SR 4 Bypass Impacts

The DEIR briefly discusses impacts from the SR 4 Bypass. (DEIR, p. IV.A-63.) However, until the location of the Bypass is known, the impacts and mitigation measures cannot be known. The DEIR should state that until the location is selected, there will not be enough information to determine impacts and mitigation measures.

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13. Residential vs. Transportation Uses

The DEIR states that many residential areas will be adjacent to existing or planned roadways, creating visual, noise, and air quality problems for project residents. (DEIR, p. IV.A-66.) As a mitigation measure, the DEIR suggests implementing design criteria, to specify an integrated approach to the visual, noise and air quality problems. (Ibid.)

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This mitigation measure is not adequate. The DEIR should specify the design criteria at this point, because the applicant is seeking specific project approvals. The measure is too vague to be enforceable.

IV. AGRICULTURE

A. Lack of Information About Rangeland

The DEIR does not state how many acres of the Cowell Ranch site are used for grazing, and how many acres would be lost to grazing. The DEIR states that there is a 246 acre apple orchard and 128 acres of alfalfa fields. The total project site is 4,277 acres. (DEIR, p. IV.B-1.) This leaves 3,903 acres of potential rangeland. In Contra Costa County, pasture and rangeland is the main agricultural use of land. In Contra Costa County in 1992, 84% of the agricultural land was used for pasture and range. The remainder was used for field crops (10%), vegetables (4%) and fruits and nuts (2%). (DEIR, p. IV.B-3.)⁵ The DEIR should provide information about the cumulative impacts of lost rangeland, so that the decision-makers and the public can understand the impact of approving this project and can consider mitigation measures.

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⁵ The DEIR should explain why the figures in Table 12 (DEIR, p. IV.B-3) for the year 1990 differ from those in the Contra Costa County General Plan (General Plan, p. 8-35.)

B. Consistency with General Plan and Principles for Cowell Ranch

The project is inconsistent with numerous provisions of the Contra Costa County General Plan because the project would convert land that is currently zoned and used for agriculture into residential and other urban uses.

The project is thus inconsistent with the General Plan policies that preservation of agricultural land should be encouraged, that prime productive agricultural land should be protected from inappropriate subdivisions, that areas that are highly suited to prime agricultural production shall be protected and preserved for agriculture, that large continuous areas of the County should be encouraged to remain in agricultural production, that agriculture shall be protected so as to assure a balance in land use, and that the policies of Measure C-1990 shall be enforced. (DEIR, p. IV.B-15.) The DEIR should state that the conflict with the General Plan is a significant impact.

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The DEIR also shows that the project is inconsistent with the principles and guidelines for Cowell Ranch which state that development of Cowell Ranch for urban uses should occur inside the Urban Limit Line and development outside the ULL shall be limited to non-urban uses and should avoid prime agricultural land, and that the development plan for Cowell Ranch should respect existing agricultural policies. (DEIR, p. IV.B-16.) The DEIR should state that this is a significant impact.

C. Loss of Prime Soils

The DEIR acknowledges that the project would result in a loss of approximately 390 acres of potentially productive land which has been designated by the U.S.D.A. Soil Conservation Service as prime soils. (DEIR, p. IV.B-18.) However, according to the DEIR, the project proposes to develop approximately 447 acres of prime agricultural soils. (DEIR, p. IV.B-18.) The DEIR only recognizes the loss of 390 acres, because it has excluded 57 acres which are also jurisdictional wetlands, which "are effectively precluded from agricultural use." (*Ibid.*) Whether or not these soils can be used for agriculture, they have been designated as prime soils, and their development eliminates 57 acres of prime soils. Further, there is no support for the claim that these acres cannot be used for agriculture. The 57 acres should be included in the total prime soils lost to development.

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The DEIR also excludes 11 acres which are subject to a Contra Costa Water District right of way and 22 acres which are to be used for the SR 4 Bypass right of way. (DEIR, p. IV.B-18.) However, the DEIR does not discuss what use would be made of the 22 acres if the County either selects an alternate route for the SR 4 Bypass or decides not to approve the Bypass. The DEIR also

does not discuss whether development of Cowell Ranch will cause the Contra Costa Water District to allow development on its right of way. The DEIR should discuss these issues and determine whether these 33 acres will be lost to agriculture.

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The DEIR acknowledges that loss of prime soils to development creates a potentially significant impact. (DEIR, p. IV.B-18.) However, the DEIR does not determine whether there are any feasible mitigation measures. Instead, the DEIR suggests redesigning the project to avoid areas of prime agricultural land, but states that if this measure is not feasible, then loss of agricultural land would cause a significant impact. (DEIR, p. IV.B-21.) This approach does not comply with CEQA. The DEIR must investigate and consider mitigation measures and provide information as to their feasibility. Without any information about whether the suggested mitigation measure is feasible, neither the decision-makers nor the public will be able to determine what action to take.

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Further, the DEIR should consider the feasibility of other mitigation measures. For example, project approval could be conditioned upon the applicant's acquisition of replacement prime soils and their dedication to permanent agricultural use.

Although a portion of the site (approximately 36 acres) is designated as Agriculture Core in the County General Plan (DEIR, p. IV.B-14), the DEIR does not discuss that acreage, whether it will be developed, and, if so, what feasible measures may be adopted to mitigate that loss. The DEIR should provide this information.

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D. Cumulative Loss of Prime Soils

The DEIR states that the loss of prime soils at Cowell Ranch will contribute to the continuing cumulative loss of prime soils in the County. (DEIR, p. IV.B-21.) However, the DEIR does not provide any quantitative information about the cumulative loss. There is no information about the amount of acreage of prime soils that would be lost to the past, pending and anticipated urban developments in the Brentwood area or the East County subregion. In the absence of that information, neither the public nor the decision-makers will know the extent of the loss caused by approval of all of these projects.⁶

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Additionally, the loss of prime soils affects not only Contra Costa County, but also affects the Central Valley and the

⁶ The DEIR states that 186,940 agricultural acres have been lost in the County since 1940. (DEIR, p. IV.B-21.) The General Plan shows that 192,480 acres have been lost. (General Plan, p. IV.B-21.) The DEIR should explain this conflict.

State of California. The DEIR notes that between 1980 and 1992, the State of California lost approximately four million acres in farmland, nearly a 12% reduction. (DEIR, p. IV.B-4.) The DEIR should provide information on the current statewide acreage in farmland, together with estimated losses due to pending and anticipated developments. Similar information should be provided for the Central Valley. Only then can the public and decision-makers understand the incremental environmental impacts of approving yet another large development on agricultural land.

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Although the DEIR recognizes that cumulative loss of prime agricultural land has potentially significant environmental impacts, it does not determine whether there are any feasible mitigation measures. Instead, it suggests redesigning the project to avoid areas of prime agricultural land, but does not determine whether that is feasible. (DEIR, p. IV.B-22.) Nor does the DEIR consider any other mitigation measures, such as acquisition of replacement prime soils, permanently dedicated to agricultural use. There is no basis upon which it can be determined whether there are feasible measures to mitigate this potentially significant impact.

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E. Impacts on Onsite Agricultural Uses

The DEIR indicates that impacts on onsite agricultural uses could be significant, citing several conflicts between urban and agricultural uses. One such conflict is that between agricultural and project traffic on public streets. (DEIR, p. IV.B-22.) However, the DEIR does not propose any measure to mitigate this conflict. The DEIR states that the greatest potential for conflicts exists along Marsh Creek Road/Camino Diablo where the project proposes access to Planning area 61. The DEIR states that this site is currently an alfalfa field and would not generate substantial agricultural traffic. (DEIR, p. IV.B-23.) However the site may be subject to other agricultural uses in the future. The DEIR should discuss whether there are other potential agricultural uses which would generate substantial agricultural traffic. If so, the DEIR should propose mitigation measures.

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The DEIR also cites impacts on agricultural operations due to the increased frequency of trespass and acts of vandalism and potential problems created by domestic pets harming or disturbing livestock. (DEIR, p. IV.B-23.) The measure proposed to mitigate vandalism and trespass is to construct fencing and install "no trespassing signs." (DEIR, p. IV.B-24.) The measure proposed to mitigate problems created by domestic pets is to enforce the county's leash law. (Ibid.) The DEIR concludes that these measures would reduce these impacts to a less-than-significant level. However, the DEIR provides no basis for such a conclusion. The DEIR should consider whether fences and signs actually prevent vandalism and whether enforcing a leash law

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actually prevents dogs from harming or disturbing livestock. If not, then the measures will not reduce these significant impacts.

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Similarly, the DEIR proposes measures to mitigate the public health and nuisance effects of agricultural operations on project residents. However, there is no discussion or analysis of whether the proposed mitigation measures will actually reduce those impacts. The DEIR should discuss how providing notice of the right to farm will reduce nuisance impacts on project residents to a less-than-significant level, and whether use of setbacks, 300 foot buffers and landscaping will actually reduce public health impacts from use of pesticides, fertilizers and herbicides, or will actually reduce noise impacts to a less-than-significant level.

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In the absence of an analysis of the actual effects of the proposed mitigation measures, there is no basis for concluding that the impacts will be reduced to a less-than-significant level. Common sense would seem to show that the impacts will not be reduced, and that the DEIR should either suggest other mitigation measures, or conclude that the impacts remain significant.

F. Impacts on Offsite Agricultural Uses

The DEIR provides only a one-sentence description of the potentially significant impacts of the project on offsite agricultural uses ("The land use compatibility problems in these areas would be similar to those described under Impact AG-3 above for the project and adjacent onsite agricultural activity.") (DEIR, p. IV.B-25.) The DEIR then simply states that the same mitigation measures should be implemented for offsite agricultural uses as for onsite agricultural uses. However, there is not enough information to determine the extent of the impacts and whether there are feasible measures to reduce the impacts.

For example, one of the "similar" impacts is a conflict between project traffic and agricultural traffic. The DEIR provides no information about the location of such potential conflicts and proposes no mitigation measure for this impact.

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One of the mitigation measures proposed for onsite agricultural uses is that those uses comply with the Habitat Management Plan. (DEIR, p. IV.B-23.) Although the DEIR suggests that the same mitigation measure be applied to offsite agricultural uses, there is no explanation of how offsite agricultural uses could be required to comply with the project's Habitat Management Plan, and this mitigation measure appears to be completely infeasible. Another mitigation measure is to require the alfalfa farming to be "organic." (DEIR, p. IV.B-23.) There is no explanation of how offsite agricultural practices

could be required to be "organic" and this measure, too, appears infeasible. Other proposed mitigation measures (fencing, enforcement of leash law) appear to be ineffective. There is no basis for concluding that these impacts could be reduced to a less-than-significant level in the absence of effective, feasible mitigation measures.

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G. Precedent-Setting Impacts on Nearby Agricultural Uses

The DEIR acknowledges that allowing development of the project may lead to other requests for development of land outside of the Urban Limit Line and which are designated Agricultural Core. The DEIR acknowledges that this is a potentially significant impacts. (DEIR, p. IV.B-26.)

However, the DEIR states, without discussion, that no feasible mitigation as been identified. Clearly, a possible mitigation measure is to avoid development of the land currently outside of the Urban Limit Line and to avoid development of land which is designated Agricultural Core. This would set a precedent showing that the county is serious about these limitations, and would not encourage other such requests and redesignations. The DEIR should discuss whether such a mitigation measure if feasible, and, if not, why not.

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Although the Cowell Ranch is surrounded by several Williamson Act lands (DEIR, p. IV.B-11), the DEIR does not discuss whether approval of the project will encourage the owners of those lands to terminate their contracts. This potential impact should be considered and mitigation measures proposed.

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V. TRANSPORTATION/CIRCULATION

Some of the project's most significant impacts are in the area of transportation and circulation. This section summarizes the DEIR's deficiencies in this area. A more detailed discussion of these issues can be found in the attached letter from transportation expert Daniel T. Smith, Jr., P.E.

A. Speculative Mitigation Measures

As Mr. Smith explains, many of the mitigation measures the DEIR relies on to reduce off-site transportation impacts to insignificance are speculative because there is no assurance that they will ever be fully funded... (Smith, pp. 1-3.) These measures include local roadway and intersection improvements, as well as regional transportation network infrastructure. (Ibid.)

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The courts have repeatedly rejected lead agency conclusions that a project's impacts had been mitigated to insignificance where there was uncertainty regarding the feasibility or success of the proposed mitigation. For example, in *Kings County, supra*,

221 Cal.App.3d 692, 727-28 [270 Cal.Rptr. 650], the agency relied on a water purchase agreement to conclude that water supply impacts were mitigated even though there was no evidence that any water would be available for purchase. The court found that "the failure to evaluate whether the agreement was feasible and to what extent water would be available for purchase was fatal to a meaningful evaluation by the [agency] and the public." (*Ibid.*)

While it may seem equitable to require the project applicant to pay for only its "fair share" of these mitigations, the measures cannot be implemented unless and until these improvements are fully funded. Projects cannot be approved in a vacuum with the hope that other developments or government programs will pick up the remainder of the mitigation tab.

Without assurance of implementation, there is no substantial evidence to support the DEIR's conclusions that these impacts will be mitigated to insignificance. The DEIR should be revised to inform the public and agency decisionmakers about the uncertainty of these mitigation measures, and should conclude that these impacts are significant unless the applicant provides the necessary funds or there is an enforceable mechanism for securing them from other sources prior to the time these mitigation measures must be in place.

Moreover, allowing development without ensuring that adequate levels of service will be maintained is inconsistent with the County's General Plan. (Contra Costa County, General Plan: 1995-2010, Roadway & Transit Goal 5-E, Roadway & Transit Policy 5-4.) This inconsistency with adopted environmental plans and goals creates another significant impact. (Guidelines, Appendix G(a).)

B. Inadequate Intersection Improvements

Mr. Smith also reviewed the project's impacts on the State Route 4 intersections at Lone Tree Way (year 2010), Laurel Road (year 2010), and Balfour Road (year 2026). (Smith, p. 3.) He concluded that the proposed intersection mitigations would be unworkably complex and would not reduce impacts to insignificance. (*Ibid.*) Instead, adequate mitigation of these impacts will likely require grade separations and interchanges, which are much more extensive and costly. (*Ibid.*)⁷ The DEIR should be revised to discuss the problems with the proposed mitigation measures and to evaluate the feasibility of grade separations and interchanges at these locations.

⁷ Mr. Smith's proposed mitigation would also be consistent with the Contra Costa County General Plan, which calls for the establishment of new interchanges over State Route 4 in the Brentwood area. (Policy 3-50.)

C. Understated External Trip Generation

Mr. Smith conducted an extensive review of the DEIR's jobs/housing balance analysis as it relates to the project's transportation impacts. He identified several fundamental flaws which resulted in a severe understatement of the project's transportation impacts (e.g., unrealistic trip length assumptions) (Smith, pp. 3-5; see also comments III.G., III.K.II).

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The jobs/housing balance should be revised to present a more realistic estimate of how many Cowell Ranch residents will work at the site versus following more typical Bay Area commuting practices, and how many Cowell Ranch workers will commute to the project area from other locales. Once this data is available, the project's transportation analysis should be revised to reflect this more realistic approach.

D. Overly-optimistic Trip Length Assumptions

According to Mr. Smith's analysis, the DEIR also uses unrealistic assumptions about the distances of trips generated by the project. (Smith, pp. 5-6.) By overestimating the number of short trips and underestimating the number of long trips, the DEIR dramatically understates the project's impacts on regional transportation corridors.⁸ (Id.) As with the jobs/housing balance assumptions, the transportation impacts analysis should be revised to more realistic trip lengths.

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E. Failure to Analyze Impacts of Mitigation Measures

One of the measures the DEIR proposes to mitigate project traffic impacts is a new east-west arterial between Balfour and Marsh Creek Roads. (DEIR, pp. 6-7.) However, as Mr. Smith explains, this new arterial could actually exacerbate transportation problems. (Smith, p. 6.) The DEIR does not provide any discussion of the potential impacts caused by this mitigation measure. Another proposed mitigation measure that

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⁸ As a result of these errors, the DEIR also substantially underestimates the transportation-related energy consumption generated by the project. The document should provide a more realistic assessment of energy consumption resulting from project-generated transportation and propose feasible mitigation measures to avoid or substantially reduce these impacts.

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⁹ The County's General Plan states that nearly 50% of the commute trips of county residents are to out-of-county destinations, with the primary destinations in Alameda and San Francisco Counties. (Contra Costa County General Plan: 1995-2010, p. 5-9.)

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could cause significant impacts is the closure of Concord Avenue. (Smith, p. 7.) Yet the DEIR contains no analysis of these impacts.

CEQA requires an EIR to discuss impacts associated with a project's proposed mitigation measures. (Guidelines § 15126(c); *Sacramento Old City Association v. City Council* (1991) 229 Cal.App.3d at p. 1011, 1027 280 Cal.Rptr. 478.) The DEIR should be revised to include an analysis of the impacts associated with the proposed East-West arterial and the closure of Concord Avenue.

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F. Inadequate Mitigation of Transit-Related Impacts

Mr. Smith concluded that the project has the potential to double the demand for public transit in the general vicinity. (Smith, pp. 7-8.) As the DEIR acknowledges, the failure to provide adequate transit service would conflict with adopted land use plans and goals. (DEIR, p. IV.C-69.)

The DEIR's conclusions about the significance of this impact are unclear. (DEIR, p. II-20, IV.C-69.) Although there is no assurance that transit providers will be able to extend service to the site, the DEIR concludes that this impact will be mitigated to a less than significant level if transit service can be extended to the project site. (*Ibid.*) Due to the uncertainty of this mitigation, the DEIR should clearly state that this significant impact remains unmitigated. (Smith, p. 7-8; *Kings County*, 221 Cal.App.3d at pp. 727-28.)

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VI. SOILS AND GEOLOGY

A. Absence of Information About Impacts

There are numerous areas in which the DEIR states that there is inadequate information about potential impacts from geologic or geotechnical features. Yet, the DEIR does nothing either to provide the information or to acknowledge that it is not possible to determine whether potentially significant impacts can be mitigated in the absence of such information. These failures violate CEQA's requirement that all significant impacts must be identified and mitigation measures proposed, unless the EIR states that there is not sufficient information to determine what impacts are significant or whether they can be mitigated. The following are examples of such statements in the DEIR.

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The DEIR states that the specific extent, relative density, and liquefaction potential of sand and gravel deposits in the vicinity of Marsh Creek Dam and Marsh Creek Reservoir "are currently unknown." (DEIR, p. IV.D-14.)

The DEIR states that landslides are concentrated within two bedrock units composed of shale and mudstone. The DEIR continue, "The current lack of bedrock exposure on the site limits the ability to identify these units. More shale and mudstone unit may be encountered during grading, resulting in the exposure of these relatively weak materials." (DEIR, p. IV.D-15.)

The DEIR defines and describes "debris flows," but provides no information about their possible location on the site. The DEIR states that slopes in the range of 26 to 45 degrees with debris containing clay in the range of 8 to 25 percent are most prone to debris flows. (DEIR, p. IV.D-15.) The DEIR states that 23 acres of land with slopes greater than or equal to 26 percent are proposed to be graded and developed. (DEIR, p. IV.D-45.) The DEIR states that some areas where potential debris flows have been identified, but that alterations to the drainage patterns within or above these deposits or groundwater changes in these areas could increase potential debris flow hazards. (DEIR, p. IV.D-45.)

The DEIR states that "past mining operations have formed excessively steep slopes in the quarry area that could be subject to erosion and/or failure during winter storms and/or seismic ground shaking." (DEIR, p. IV. D-15.)

The DEIR states that "the specific faults and their locations are not well known." (DEIR, p. IV.D-16.) The DEIR also states that a "slight possibility of ground rupture on the site does exist" at the Davis and Brentwood faults. (DEIR, p. IV.D-19.) The DEIR further states that the "Vaqueros fault, located east of the dam site, was not trenched and no information on the most recent fault movements has been generated. However, the Vaqueros fault is known to be seismically active." (DEIR, p. IV.D-19.) The DEIR concludes that the "maximum credible earthquake on a segment of this fault zone within the project area would have a Richter magnitude of about 6.5 and could result in severe groundshaking ..." (DEIR, p. IV.D-22.)

As to Marsh Creek Dam, the DEIR states, "Although granular deposits were encountered in some of the borings for the dam, the potential for liquefaction has not been addressed." (DEIR, p. IV.D-24.)

In the absence of information about these impacts, the DEIR must comply with section 21157(b)(3) which requires that a master EIR must contain a description of potential impacts for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master EIR. In the absence of this information, the county cannot grant approvals which cause impacts whose significance is unknown and for which mitigation measures have not been proposed or implemented.

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B. Inadequate Investigation of Impacts, Development of Mitigation Measures and Unsupported Conclusions of Mitigation

The DEIR finds that general geologic/geotechnical impacts are potentially significant because they represent a potential threat to project residents, structures and improvements. (DEIR, p. IV.D-29.) However, instead of investigating the impact and identifying, considering and proposing mitigation measures, the DEIR simply states that the impact "would" be reduced to a less-than-significant level by imposing a mitigation measure which would require "subsequent geologic/geotechnical investigations, establish grading limitations, require grading progress and completing [sic] reporting, and establish a Geologic Hazards Abatement District." The DEIR then finds that this measure, together with other suggested measures, would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-29.)¹⁰

This proposal does not comply with the requirements of CEQA, discussed above, that the agency must investigate environmental impacts and propose mitigation measures before a project may be approved. The EIR's failure to identify the significance of impacts and ways to mitigate them precludes approval of any part of the project which would cause such unknown impacts and require unknown mitigation measures.

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In the absence of proposed mitigation measures, neither the decisions makers nor the public can have any basis for determining whether impacts are significant and, if so, whether they can be mitigated.

The applicant is seeking very specific approvals, including a development agreement and a planned unit development. These are not general conceptual approvals, but specific authorizations to develop. An applicant seeking such specific approvals must provide equally specific information about the potential environmental impacts of those approvals. The applicant here has not done so, and such approvals cannot be granted.

¹⁰ Additionally, the DEIR makes the vague statement that there is historic information to support the claim that specific subsequent investigations, monitoring and mitigation measures would adequately mitigate the project impacts and that the county "routinely" requires such investigations. (DEIR, p. IV.D-34.) However, there is no factual information in the DEIR to support that statement. Further, if the project is annexed to Brentwood, any "historic" behavior by the county would be irrelevant. Additionally, CEQA requires that mitigation measures be specified and be enforceable. (Pub.Res.Code § 21081.6(b).). "Historic" behavior by a governmental entity does not meet these requirements.

Requiring development of a mitigation measures is not, itself, a mitigation measure. CEQA requires that the mitigation measures be developed and presented in the EIR itself. The following are examples of inadequate investigations, inadequate mitigation measures, and unsupported conclusions that impacts will be mitigated.

1. Cut Slope Stability and Fill Slope Stability: The DEIR finds potentially significant impacts and then proposes as an inadequate mitigation measure that the county should "require specific evaluation as part of subsequent detailed geotechnical investigations ... and construction monitoring and site specific design and construction criteria." The DEIR improperly concludes that "This measure would reduce the impact to a less-than-significant level." (DEIR, p. IV.D-37, 38.)
2. Settlement and Differential Settlement of Fills: The DEIR finds a potentially significant impact and then proposes as an inadequate mitigation measure that the county should require formulation and implementation of detailed design criteria for fill, and improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-39.)
3. Erosion and Sedimentation: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures including implementing a Stormwater Pollution Prevention Plan (contents not specified), and monitoring the effectiveness of the mitigation measures. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-41.)
4. Expansive Soils: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring evaluation of the expansive soils and bedrock and formulation and implementation of foundation and pavement design criteria. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-43.)
5. Liquefiable Soils: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring evaluation of the liquefiable soils and either avoiding development of the area or formulating mitigating design

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criteria. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-44.)

6. Landslides and Other Slope Instabilities: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring mapping and evaluation of the potentially unstable areas and avoiding areas that are inappropriate for grading and formulating a slope stabilization program. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-45.)
7. Sand Quarry Cut Slopes: The DEIR finds a potentially significant impact in that potential failure of the steep sand quarry cut slopes could damage project structures and improvements. The DEIR then proposes an inadequate mitigation measure consisting of phasing development to permit mining and then submitting a mine closure and reclamation plan. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-48.)
8. Soil Creep: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring evaluation soil creep and formulating mitigating design criteria. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-49.)
9. Ground Shaking: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring compliance with the Uniform Building Code seismic standards and implementation of design criteria recommended by a geotechnical professional. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-50.)
10. Ground Failure: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring evaluation of seismic ground failure hazards and formulation and implementation of mitigating design criteria. The DEIR then improperly concludes that the measure

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would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-50.)

11. Fault Ground Rupture: The DEIR finds a potentially significant impact, proposes inadequate mitigation measures consisting of requiring evaluation of ground fault rupture and formulation and implementation of warranted mitigations. The DEIR then improperly concludes that the measure would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-51.)
12. Marsh Creek Reservoir Dam: The DEIR finds a potentially significant impact in that the dam could fail, creating a safety hazard for downstream project residents, structures and improvements. The DEIR then suggests that two agencies should formulate and implement warranted mitigations. The DEIR then improperly concludes that the measures would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-52.)
13. Geotechnical Hazards Abatement District: The DEIR also proposes that a Geologic Hazards Abatement District should be formed to "fund and provide ongoing monitoring and maintenance of graded areas and geologic/geotechnical mitigations and equitable allocation of abatement costs among affected property owners." (DEIR, p. IV.D-35.) However, the DEIR does not state what the cost of carrying out such mitigation measures would be and whether future homeowners could afford them. The cost could be enormous, as the homeowners would be responsible for further studies of geotechnical problems "if and when they develop" and the cost of repairing common project facilities which may be damaged by geologic hazards. (DEIR, p. IV.D-34-35.) If the cost is too great, then the proposed mitigation measure is not feasible. The DEIR must discuss this issue.

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This discussion of impacts and mitigation measures is completely inadequate for the approvals being sought. The DEIR should either provide the information or should state that for each of these impacts, there is not sufficient information reasonably available to support a full assessment of potential impacts in the master EIR, as required by section 21157(b)(3). If the information will not be provided in the master EIR, the county cannot grant any approval which would allow these impacts to occur. The county should ensure that before any such project approvals (development agreement, planned unit development,

rezoning) are granted, these impacts are investigated and mitigation measures are developed, considered and imposed.

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C. Inadequate Discussion of Applicable Policies

The DEIR lists policies applicable to the Cowell Ranch project which are found in the Contra Costa County General Plan Conservation Element and Safety Element (DEIR, p. IV.D-24), Contra Costa County's Conditions for a 21st Century Community (DEIR, p. IV.D-26) the Principles and Guidelines for Cowell Ranch adopted by the Contra Costa County Board of Supervisors (DEIR, p. IV.D-27) and the City of Brentwood General Plan (DEIR, p. IV.D-27), but does not discuss whether the project complies with any of those policies.

The project appears to be inconsistent with several of these policies. The Contra Costa County General Plan provides that hillsides with a grade of 26 percent or greater shall be protected through appropriate actions (DEIR, p. IV.D-24), yet the DEIR states that 23 acres of land with slopes greater than or equal to 26 percent are proposed to be graded and developed. (DEIR, p. IV.D-45.)

The General Plan also states that slope stability shall be a primary consideration for the ability of land to be developed or designated for urban use and that proposed extension of urban or suburban land uses into areas characterized by slopes over 15% and/or generally unstable land shall be evaluated with regard to the issuance of any discretionary approvals (DEIR, p. IV.D-25), yet the DEIR provides no information about whether any slopes proposed for development are greater than 15% and has not adequately investigated and considered the problem of slope stability.

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The General Plan further states that approvals of private development projects in areas subject to slope failures shall be contingent on geologic and engineering studies which define and delineate potentially hazardous conditions and recommend adequate mitigation. (DEIR, p. IV.D-25.) Yet, the DEIR postpones such studies until after project approval.

The General Plan states that generally, residential density shall decrease as slope increases, especially above a 15% slope. (DEIR, p. IV.D-25.) However, the DEIR provides no information as to whether the project complies with this requirement.

The General Plan states that significant hillsides with slopes over 26% or more shall be considered unsuitable for types of development which require extensive grading or other land disturbance. (DEIR, p. IV.D-26.) Yet, the DEIR states that 23 acres of land with slopes greater than or equal to 26 percent are proposed to be graded and developed. (DEIR, p. IV.D-45.)

The General Plan states that development shall be precluded in areas where landslides cannot be adequately repaired. (DEIR, p. IV.D-26.) Yet, the DEIR provides no information as to whether the potential landslides can be repaired. Consequently, the applicant is seeking approval of development without the county knowing whether the development is consistent with this policy.

Contra Costa County's *Conditions for a 21st Century Community* provides that the county should ensure geologically sensitive development through engineering design regulation and review to avoid soil erosion, slope failure, high maintenance costs and property damage. (DEIR, p. IV.D-26.) Yet, the DEIR proposes creation of a Geologic Hazards Abatement District without discussing the maintenance cost which the homeowners are expected to bear and does not ensure that slope failure, soil erosion and property damage will be avoided

There is no discussion of whether grading will be designed to complement the terrain or will be limited, whether prominent ridges and other significant natural features will be preserved, or whether grading will emulate natural landforms, as provided in the *Conditions*.

The DEIR does not consider whether the development of the project will be sited and designed to reduce the appearance of building mass or to emphasize the natural contours of the site, as provided in the *Principles and Guidelines for Cowell Ranch* (DEIR, p. IV.D-27.)

Nor does the DEIR consider whether the project is consistent with any of the policies of the Brentwood General Plan, including preserving steep hillsides from development and mass grading, protecting life and property from potential landslides and earthquake hazards, and preventing land subsidence. (DEIR, p. IV.D-27.)

D. Inadequate Geotechnical Analysis

The attached letter from Dr. William Lettis, C.E.G., Principal Geologist, and Gary Simpson, R.G., Project Geologist of William Lettis & Associates, Inc., is incorporated into these comments by reference. Dr. Lettis demonstrates that there is no basis for the conclusion that geological impacts can be mitigated to a less-than-significant level.

1. Inadequate Characterization of Seismic Hazards

The DEIR concludes that seismic hazards can be mitigated to insignificance. (DEIR, p. IV.D. 49 - 51.) However, the DEIR has not characterized the seismic hazards accurately, as described in the letter from Dr. Lettis. In the absence of an accurate characterization of seismic hazards, there is no basis for

concluding that the admittedly adverse environmental impacts caused by those hazards can be mitigated.

Dr. Lettis points out several mistakes in the DEIR. First, the DEIR mistakenly correlates mapped surface faults at the site with the underlying blind thrust fault that defines the Sierra Nevada Coast Range boundary zone. The DEIR must consider the potential impacts of the blind thrust fault separately. This is important because an earthquake generated on the blind thrust fault would be larger and may cause greater peak ground acceleration than an earthquake on one of the mapped surface faults. A geotechnical report prepared for Cowell Ranch by Harding Lawson Associates determined that ground acceleration of as much as 1.0 g may occur near the epicenter of a large earthquake along the underlying blind thrust fault. However, the DEIR did not present that information and, instead, presented only a table showing that the mapped surface faults along the Coast Range would result in peak ground acceleration of about 0.74 g. This is misleading.

Second, the DEIR presents conflicting information about the seismic activity on the mapped faults. The DEIR states that these faults have not been active recently, implying that they are inactive. However, the DEIR also describes historic seismic activity on these faults, indicating that they are active. The DEIR relies on the implied inactivity of these faults in concluding that the siting of only critical project facilities need be restricted. That conclusion is not supported by the conflicting information in the DEIR. The DEIR should determine whether the faults are active or inactive, should provide supporting information, and should determine the safest location for all project facilities.

Third, the DEIR provides conflicting information about the characterization of the Davis fault. The DEIR states on separate occasions that it is a normal fault, a strike-slip fault, and a reverse slip fault. The Davis fault can be only one type of fault. The DEIR should provide accurate information, so that project facilities can be adequately protected from the impacts of an earthquake on this fault.

2. Potential Impacts to Marsh Creek Reservoir Dam

The DEIR states that the possibility of earthquake-induced dam failure and flooding represents a potentially significant impact, but proposes a mitigation measure with no assurance that it will be carried out. The DEIR proposes that the DWR and the Contra Costa County Flood Control and Water Conservation District reevaluate the stability of the dam and "formulate warranted mitigations." (DEIR, p. IV.D-52.)

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As discussed by Dr. Lettis, this dam is old, and was designed to seismic ground shaking of 0.1 g. The California Department of Water Resources evaluated the dam in 1981 and concluded that ground acceleration of 0.4 g may occur at the dam. The more recent study by HLA suggests that acceleration of 1.0 g may occur at that site. The situation is serious, and calls for a remedy prior to project approval. However, there is no assurance that the DWR and Water Conservation District are prepared either to evaluate the dam or to fund and execute required mitigation measures. There is no basis for finding that the possibility of future studies and future mitigation has reduced the potential flooding impact from failure of this dam to a less-than-significant level.

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3. Cut and Fill Slope Stability

The DEIR acknowledges that cut and fill slopes create a potentially significant impact, but concludes that requiring future geotechnical evaluations and future site-specific design and construction would reduce the impact to a less-than-significant level. (DEIR, p. IV.D-36 - 38.) However, in the absence of any information about the nature or strength of the cut and fill materials, or of the materials upon which the fill will be placed, there is no basis for concluding that this impact can be mitigated to insignificance simply through site-specific design and construction criteria. It is not feasible to place fill material on top of every type of soil, nor is it feasible to design a cut slope for every type of soil. Until the nature and type of soil is known, it cannot be determined whether a site is buildable. Mitigation may consist of avoiding construction on the site. There is simply no basis for concluding otherwise.

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4. Liquefaction Hazard

Because the site has not been adequately mapped and the distribution, extent and thickness of potentially liquefiable deposits is not known, there is no basis for concluding that liquefaction hazards can be mitigated to a less-than-significant level and to identify which project sites are suitable for construction.

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5. Landsliding

There is not enough information in the DEIR to support a decision as to the location of buildable sites. The DEIR acknowledges that the proposed grading could cause a significant impact due to potential landslides. The DEIR suggests that the site be mapped, that areas inappropriate for mass grading be avoided and that a detailed slope stabilization program be implemented. (DEIR, p. IV.D.44-45.) Yet, the applicant seeks approval of a proposed plan which shows development of specific sites on the property. In the absence of information about

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landslides, there is no basis on which to conclude that impacts to those sites can be mitigated to insignificance while still allowing construction on the sites.

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6. Ground Shaking

There is no basis for concluding that compliance with the Uniform Building Code will reduce impacts from ground shaking to a less-than-significant level. The DEIR states that an impact will be considered significant if it will "expose people and improved property to significant hazards." (DEIR, p. IV.D.-28.) As explained by Dr. Lettis, compliance with the UBC is designed to reduce the likelihood of structural collapse, but does not preclude significant damage to structures and damage and disruption to infrastructure and services. The potential impact from ground shaking remains significant if the only mitigation measure is compliance with the UBC.

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VII. DRAINAGE, FLOOD CONTROL, AND WATER QUALITY

The DEIR identifies several potentially significant impacts in the area of drainage, flood control, and water quality. The DEIR concludes that all of these impacts will be mitigated to insignificance, but provides insufficient evidence of these conclusions.

A. Deferred Mitigation of Drainage Impacts

1. Marsh Creek Channel Capacity

As Dr. Weissman explains, the DEIR does not adequately assess either the adequacy of the proposal to increase the channel capacity of Marsh Creek nor the potential biological impacts associated with this mitigation measure. (Weissman, pp. 5-6.) This constitutes the deferral of mitigation and the failure to analyze impacts of a proposed mitigation measure. (Sundstrom, supra, 202 Cal.App.3d at pp. 306-08; Guidelines § 15126(c).)

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2. Kellogg Creek Watershed

One of the project's significant impacts is its contribution of additional storm water flows to the Kellogg Creek drainage area. (DEIR, pp. IV.E-20 to -22 (impact D-3).) This drainage area already experiences significant downstream flooding, and planned improvements will help, but not eliminate, flooding events. (Ibid.) Drainage improvements are needed to mitigate this impact, but no specific improvements have been proposed. Instead, the applicant must make unidentified downstream improvements and pay its "fair share" of other unidentified

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improvements in drainage area 109. (DEIR, p. IV.E-22.)¹¹ Nor is any time period stated for implementation of this mitigation measure. Based on this deferred and undefined mitigation, the DEIR concludes that the impact will be mitigated to insignificance. (*Ibid.*)

This type of mitigation is similar to that invalidated in *Sundstrom, supra*, 202 Cal.App.3d at pp. 306-08. The DEIR fails to identify mitigation measures with any level of specificity, and defers development of mitigation to some point in the future. The DEIR does not provide the public or the County with enough data to determine whether these impacts will be adequately mitigated. There is also no way of knowing when and if the remainder of the necessary funding for improvements in drainage area 109 will come about, since this funding is conditioned on uncertain "other future development" projects in the area. (DEIR, p. IV.E-22.) The speculative nature of these mitigation measures indicates that there is no substantial evidence that these impacts will be mitigated to insignificance. (*Sundstrom, supra*, 202 Cal.App.3d at pp.306-08; *Kings County, supra*, 221 Cal.App.3d at pp. 727-28.)

3. Dry Creek Watershed

Mitigation measures for impacts to Dry Creek (impact D-6) are also improperly deferred. (DEIR, p. IV.E-27.) The applicant has proposed to construct channel improvements, but no details have been submitted to assess their adequacy. Although the DEIR acknowledges that this impact must be considered potentially significant until this assessment is made, it concludes that the impact will be mitigated to insignificance once this assessment is conducted. (*Ibid.*) This type of circular reasoning does not constitute substantial evidence that these impacts have been mitigated to insignificance.

B. Inadequate Analysis and Mitigation of Water Quality Impacts

1. Soil Erosion

The project poses a "significant threat of soil erosion." (DEIR, p. IV.E-28 (impact D-7).) Eroded soils could, in turn, increase the sediments in drainage channels, reducing channel capacity and affecting water quality. The mitigation measures for this impact are to require the applicant to get a NPDES

¹¹ There is also no discussion of whether the "fair share" funding requirement complies with the Conditions for a 21st Century, which require developments to finance the full cost of drainage improvements necessary to accommodate peak floods. (Flood Control Section, Policy 1; DEIR, p. IV.E-13.)

permit from the Regional Water Quality Control Board ("RWQCB") and prepare a Stormwater Pollution Prevent Plan ("SWPPP") at the grading permit stage, conduct monitoring to ensure the SWPPP is working, and offset any sedimentation increases. (*Ibid.*)

This mitigation plan violates CEQA for several reasons. First, the County has improperly deferred development of mitigation until after project approval. There is no evidence that this future-determined mitigation will reduce impacts to insignificance. (*Sundstrom, supra*, 202 Cal.App.3d at pp. 306-08; *Kings County, supra*, 221 Cal.App.3d at pp. 727-28.)

Second, the County has improperly delegated its mitigation responsibilities to another agency without having meaningful information justifying an expectation that the impacts can be mitigated. (*Sundstrom, supra*, 202 Cal.App.3d at pp. 308-09;

Third, there is no analysis of the potential impacts associated with proposed mitigation measure D-7, which calls for the applicant to offset any sedimentation increases (*i.e.*, excavating and removing soils from the Marsh and Dry Creek Reservoirs). (*DEIR*, p. IV.E-28 to 30.) These excavated soils may be contaminated with mercury. (*DEIR*, pp. IV.M-17 to 27.)¹² Excavating the soils may re-suspend mercury already present in the soils and could exacerbate the mercury levels found in reservoir water and fish species.

Moreover, if these soils constitute "hazardous waste," stringent regulations must be followed for all handling and disposal activities, and an appropriate disposal site must be identified. (Health & Safety Code § 25142; Title 22, Cal. Code Regs., Title 22, Div. 4.5.) The potential impacts associated with mitigation measure D-7 must be assessed. (Guidelines § 15126(c); *Sacramento Old City Association, supra*, 229 Cal.App.3d at p. 1027.)

2. Urban Runoff Pollutants

The project also has the potential to degrade water quality by generating urban pollutants that end up in runoff. (*DEIR*, pp. IV.E-30 to -31.) Although the applicant has proposed a detention basin plan as mitigation for this impact, no details have been provided. Thus, the *DEIR* cannot assess the adequacy of this plan. (*DEIR*, p. IV.E-30.) Instead, specific mitigation measures are to be formulated after the project is approved and incorporated in the permits issued by the RWQCB. (*DEIR*, p. IV.E-31.)

¹² The *DEIR* is ambiguous about whether and when the mercury-contaminated soils in the Marsh Creek Reservoir will be remediated. (*DEIR*, p. IV.M-26 to 27.)

This constitutes the improper deferral and delegation of mitigation measures. (*Sundstrom, supra*, 202 Cal.App.3d at pp. 306-09; *Citizens for Quality Growth, supra*, 198 Cal.App.3d at pp. 442-43.) As a result, there is no substantial evidence to support the DEIR's conclusions that this impact will be mitigated to insignificance.

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3. Golf Course Pollutants

Another potentially significant water quality impact is the potential for golf course fertilizers, pesticides, and herbicides to enter water bodies and lead to eutrophication. (DEIR, p. IV.E-31 (Impact D-9).) The DEIR water quality impacts such as calls for the preparation of a *Golf Course Management Plan* to mitigate these impacts. (DEIR, p. IV.E-32.) This mitigation measure is too vague and without details there is no evidence to support a conclusion that the impact will be mitigated to insignificance.

Furthermore, as Dr. Weissman discusses, the DEIR does not consider the use of reclaimed water to mitigate fertilizer runoff impacts. (Weissman, pp. 6-7.) In addition to the obvious benefits of reducing the project's water needs, reclaimed water contains natural fertilizers that can significantly reduce the risk of surface and ground water contamination. (*Ibid.*)

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CEQA requires that, "[w]here several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified if one has been selected." (Guidelines § 15126(c).) The failure to analyze the use of reclaimed water as mitigation for fertilizer impacts violates this requirement. The DEIR should be revised to remedy this omission.

VIII. PUBLIC FACILITIES AND SERVICES

A. Water Service

The DEIR contains an inadequate analysis of the environmental effects of supplying water to the Cowell Ranch project.

1. The DEIR violates requirements set forth in Stanislaus Natural Heritage Project v. County of Stanislaus

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The Cowell Ranch project will require more water than the entire City of Brentwood currently requires. (Compare DEIR Table 38 with DEIR Table 39.) To comply with CEQA, the DEIR must identify possible permanent sources of water for the Cowell Ranch project and discuss the potential adverse effects involved in obtaining a water supply. (*Stanislaus Natural Heritage Project*

v. County of Stanislaus (1996) 48 Cal.App.4th 182, 206 [55 Cal.Rptr.2d 625, 640].) The DEIR fails to comply with both of these requirements.

Stanislaus Natural Heritage Project involved a proposal for a destination resort community called Diablo Grande that would be developed over a twenty-five year period and would eventually include 5,000 residential units, open space, golf courses, a research campus, and assorted other facilities. (*Id.* at 188 [55 Cal.Rptr.2d at 628].) The EIR covered a general plan amendment, rezoning, and a specific plan. (*Ibid.*) The EIR acknowledged that a firm water supply had not been established beyond the first five years of development, yet failed to identify potential permanent water sources and analyze the impacts of obtaining water from those sources. (*Id.* at 195 [55 Cal.Rptr.2d at 633].)

The court held that "the County's approval of the project under these circumstances defeated a fundamental purpose of CEQA: to 'inform the public and responsible officials of the environmental consequences of their decisions before they are made.'" (*Ibid.*, quoting *Laurel Heights II*, *supra*, 6 Cal.4th 1112, 1123 [26 Cal.Rptr.2d 231].) The court stated that the deficiency was not cured by the assurance in the EIR that the County would not allow development to proceed beyond the initial five-year phase until adequate water supplies were available and the environmental impacts of obtaining those supplies had been analyzed. (*Id.* at 195 [55 Cal.Rptr.2d at 632-33].) The court further held that deferring analysis of the impacts of supplying water until a later phase of the project would be inappropriate. It stated, "The County in this case could not make an informed decision on whether to adopt the Diablo Grande Specific Plan without being informed, to some reasonable degree, of the environmental consequences of supplying water to a 5,000 residential unit development which has no on-site water source." (*Id.* at 199 [55 Cal.Rptr.2d at 635].) The court reasoned that, regardless of the subsequent environmental review and additional mitigation measures that might be adopted during later phases of the project, the development would need water from some source, and the County must therefore analyze the impacts of supplying that water before adopting the specific plan calling for the project to be built. (*Id.* at 199-200 [55 Cal.Rptr.2d at 636].)

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The Cowell Ranch situation is virtually identical to the Diablo Grande case. The projects are similar in that both would involve building five thousand residential units, golf courses, and assorted other facilities on large tracts of agricultural land and open space that do not have adequate water supplies to support the proposed developments. The EIRs for both projects contemplate general plan amendments and zoning changes. While the EIR for the Diablo Grande development also called for the adoption of a specific plan, the DEIR for Cowell Ranch requests approval of a development agreement. (DEIR p. III-10.)

a. The DEIR Does Not Identify a Permanent, Long-Term Water Supply

Like the Diablo Grande EIR, the DEIR for Cowell Ranch fails to identify adequately a permanent source of water for the project. The DEIR repeatedly states that the project area is likely to be annexed by the City of Brentwood. (See, e.g., DEIR p. IV.F-17.) Brentwood has only enough water to supply its projected growth through 2010. (Table 38, DEIR p. IV.F-9.) Even including the water the Cowell Ranch proponents may acquire from the Byron Bethany Irrigation District (BBID), Brentwood will not be able to accommodate its projected growth through 2020.¹³ (Id.) The DEIR does not discuss whether an additional water supply will actually be available to fulfill the city's long-term needs.

Even if the city does not annex the Cowell Ranch site and the project proponents rely on the contract with BBID to obtain water, the DEIR contains an inadequate discussion of whether it will actually be feasible to obtain and treat that water. For example, the DEIR states that the BBID has approximately 60,000 acre-feet of water "potentially" available. (DEIR p. IV.F-6.) It does not state that the water is actually available or describe what steps would be required for BBID to supply water to the project. In addition, the document does not include an analysis of the feasibility of treating the water supplied by BBID if the project site is not annexed by Brentwood. In *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831 [173 Cal.Rptr. 602, 609], the court held that a bare conclusion that a water supply for a proposed project would be available was insufficient to allow the EIR to fulfill its informational purposes. In addition, the Contra Costa County General Plan requires "new development to demonstrate that adequate water quantity and quality can be provided." (Public Facilities Element, Policy 7-21, page 7-13; see also *Conditions for a 21st Century Community*, Water Section, Policy 1.) The DEIR must be revised to provide specific information about the source of water for the project.

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¹³ The discussion in the DEIR labeled "Long-Term Water Supply Plan" is in reality a list of water treatment options rather than an evaluation of water supply possibilities. (See DEIR pp. IV.F-10, IV.F-11.)

b. The DEIR Does Not Address the Environmental Impacts of Supplying Water for the Project

Perhaps more important than identifying a source of water for the project, the DEIR entirely fails to discuss the environmental impacts involved in obtaining that water. Water for the project must come from somewhere. Even if potential suppliers have rights to sufficient quantities of water, there will still be impacts that result from diverting that water from other beneficial uses. For example, if the supplier has rights to water from the Delta but is currently not withdrawing the full amount, supplying the project may harm the Delta ecosystem. (See letter dated 12/2/96 from Gregory Gartrell, Director of Planning, Contra Costa Water District.) Or if the water is currently being used for agricultural purposes, those interests may be injured if the water is instead used for the Cowell Ranch development. Moreover, other proposed development in the region will need additional water supplies, and taking water from competing needs may harm other potential users. In *Santiago County Water District*, the court held that the EIR for a project that would use a substantial quantity of water must evaluate the effect of that water delivery on water service elsewhere in the area. (118 Cal.App.3d at 831 [173 Cal.Rptr. at 609].) The DEIR must also discuss the environmental effects of building the necessary treatment plant and pipelines. (*Id.* at 829-30 [173 Cal.Rptr. at 608].)

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CEQA requires "recognition that water must be supplied, that it will come from a specific source or one of several possible sources, of what the impact will be if supplied from a particular source or possible sources and if that impact is adverse how it will be addressed." (*Stanislaus Natural Heritage Project*, *supra*, 48 Cal.App.4th at 206 [55 Cal.Rptr.2d at 640]; accord, *Santiago County Water Dist.*, *supra*, 118 Cal.App.3d at 829-31 [173 Cal.Rptr. at 607-09].) The DEIR fails to explore these issues, and therefore violates CEQA.

The California Legislature recently enacted legislation that reinforces the holdings of the courts in *Stanislaus Natural Heritage Project* and *Santiago County Water District*. The legislation requires cities and counties to include long-term water planning information in the EIR for certain projects that involve an amendment to the land use element of a general plan providing for additional development if the development will result in a net increase in population density or building intensity. (Cal. Water Code §§ 10910-11.) The EIR must include an assessment of whether projected water supplies will meet water demand associated with the proposed project as well as existing and planned future uses. (Cal. Water Code § 10910.) These provisions apply to mixed use developments if they would demand an amount of water at least equivalent to the amount required by a five-hundred unit residential development. (Cal. Water Code §

10913(f).) Although this legislation likely does not apply to the Cowell Ranch project because the notice of preparation apparently was submitted before January 1, 1996 (see Cal. Water Code § 10914(d)), it nevertheless demonstrates that, like the courts in *Stanislaus Natural Heritage Project* and *Santiago County Water District*, the state legislature considers the issue regarding the water supply for large new developments to be significant.

When evaluating the environmental effects of obtaining a water supply for the Cowell Ranch project, the DEIR should take into account the policy in the Contra Costa County General Plan giving preference to development on vacant and under-used sites within urbanized areas over development on suburban lands. (Land Use Element, Policy 3-8, p. 3-40.) If the water supply is insufficient to provide for all of the proposed development in the County, preference should be given to development within areas that are already urbanized. The DEIR must discuss whether the project conflicts with this provision of the General Plan.

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c. The County May Not Defer Analysis of Water Supply

The County may not wait until later phases of the project to evaluate these issues in a focused EIR. Under CEQA, the amendment of a general plan is a "project." (*Stanislaus Natural Heritage Project*, *supra*, 48 Cal.App.4th at 202 [55 Cal.Rptr.2d at 637].) Like the Diablo Grande development, this project is not merely a general policy document; rather, it "designate[s] the specific sites for future development, and describes what structures the future development will consist of." (*Id.* at 204 [55 Cal.Rptr. at 639].) In this situation, the DEIR must provide information regarding the environmental consequences of supplying water to the development to allow the County to make an informed decision. (*Id.* at 206 [55 Cal.Rptr. at 640].)

2. The DEIR Fails to Address the Cumulative Impacts of Supplying Water to Cowell Ranch and other Developments in the Region

The analysis of water supply in the DEIR is also deficient because it fails to address the cumulative environmental impacts resulting from the increased demand on the regional water supply that will be generated by the Cowell Ranch project in combination with the many other developments in Contra Costa County that have recently been built, are under construction, or have been approved or proposed. The DEIR must discuss these other projects because they are closely related past, present, and reasonably foreseeable future projects that are likely to have a cumulative significant effect on the water supply in the region. (14 Cal. Code Regs. §§ 15130, 15355.) The document must contain a reasonable analysis of the cumulative effects of supplying water

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to these projects and the options for mitigating or avoiding each significant cumulative effect. (14 Cal. Code Regs. § 15130(b)(3); *Citizens to Preserve the Ojai v. Ventura County* (1985) 176 Cal.App.3d 421, 431-32 [222 Cal.Rptr. 247, 253].)

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3. The DEIR Should Describe Opportunities for Using Reclaimed Water

Contra Costa County's *Conditions for a 21st Century Community* requires new development to identify and develop opportunities for using reclaimed, recycled, and treated wastewater. (Reclaimed Water Section, Policy 1.) The DEIR mentions that reclaimed water could be used for landscaping, but provides no details. As discussed in the attached comments of Dr. Karen Weissman, the DEIR should identify specific uses for reclaimed water and describe where such water would come from and what system would be used to transport it, as well as the environmental impacts of such use.

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B. Sewer Service

The DEIR does not include an adequate analysis of the environmental impacts that the Cowell Ranch project will generate as a result of the need for sewer service. The impact of the project on sewer service will be significant. The City of Brentwood already appears to be causing Marsh Creek to violate state water quality standards. (See DEIR p. IV.F-30.) The city's wastewater treatment plant and disposal facility are near capacity, and are insufficient to accommodate growth that has already been approved. (*Id.*) The existing capacity of the plant is 1.8 million gallons per day average dry weather flow. (DEIR p. IV.F-28.) Cowell Ranch alone will generate that level of sewage when fully built. (DEIR p. IV.F-38.)

While the DEIR describes a plan for expanding the city's interim wastewater treatment capacity and proposes four alternatives for expanding the long-term wastewater treatment capacity, it fails to discuss many of the environmental impacts that would result from such expansion. For example, the document does not discuss the impact that increased flows would have on Marsh Creek and the fish and wildlife that depend on it. Nor does it discuss the effect that expanded treatment facilities would have on the land that would be used for those facilities and on the surrounding area (see attached comments of Dr. Karen Weissman).¹⁴ Because the proposed project will, from its

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¹⁴ The Contra Costa County *General Plan* notes that expanding land disposal in East County communities "may be impractical in the future due to the large amount of land that would be required for the disposal of wastewater generated by projected growth. (Public Facilities/Services Element, p. 7-22.)

inception, inevitably require expanded sewer service, the impacts of that expansion must be evaluated in this DEIR rather than in a focused EIR during a subsequent phase of the project. (See Stanislaus Natural Heritage Project, supra, 48 Cal.App.4th 182 [55 Cal.Rptr.2d 625].)

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The DEIR also does not discuss whether the sewer trunk line that will be extended to serve the Cowell Ranch project will have the capacity to serve additional new development. If it will, the DEIR should consider that a significant impact and propose feasible measures to mitigate that impact. (14 Cal. Code Regs. § 15126(c) and Appendix G.)

As mitigation for the impacts caused by the expansion of wastewater collection system, the DEIR states that for each future development component, the applicant will submit detailed studies and water system improvement plans and the County will have authority to approve designs. (DEIR p. IV.F-40.) As mitigation for the impacts caused by the expansion of the wastewater treatment system, the DEIR states that either the City of Brentwood will "implement a long-term wastewater treatment solution adequate to serve the project" or the project sponsor will provide on-site treatment and disposal. (DEIR p. IV.F-41.) The DEIR provides almost no detail regarding these proposed mitigation measures. The vagueness of these mitigation measures violates CEQA by depriving the County and the public of the opportunity to evaluate whether the measures are feasible and to consider the environmental effects of both the project and the mitigation measures. (14 Cal. Code Regs. § 15126(c).) Moreover, the DEIR offers no substantiation for the conclusion that these vague mitigation measures will reduce the project's impacts resulting from the increased need for wastewater treatment and collection to insignificance.

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C. Police and Fire Protection Services

The DEIR states that the project will have a potentially significant impact on the Contra Costa County Sheriff's Department and the Brentwood Police Department because additional staffing, equipment, and a new substation will likely be needed. (DEIR pp. IV.F-46, IV.F-48.) In addition, the project will have a potentially significant impact on fire protection and emergency medical response because two new fire stations, as well as additional staffing and equipment, would be required. (DEIR p. IV.F-55.) As mitigation, the DEIR states that the applicant will prepare a Public Services and Facilities Plan. However, the DEIR provides almost no details regarding the contents of that plan and therefore deprives the County of the opportunity to consider it and the public of the opportunity to comment on it. To comply with CEQA, the DEIR must include a detailed discussion of the proposed mitigation measures in order to fully inform the public and responsible officials and to support the conclusion that if

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those measures are implemented, the project will not have a significant impact on fire and police protection and emergency services. In addition, as discussed in the attached comments of Dr. Karen Weissman, the DEIR should discuss whether a feasible funding mechanism is available to ensure that these crucial services will be affordable. (See Contra Costa County General Plan, Public Facilities/Services Element, Policies 7-1, 7-2, 7-4.)

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The DEIR does not discuss the potential impacts of building two fire stations or a police substation. For example, it contains no analysis of whether the stations will be compatible with surrounding land uses, whether there will be additional noise or traffic impacts, impacts on water supply, or whether the locations will provide an adequate degree of safety for the community. The DEIR should discuss these issues.

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The discussion of fire protection needs in the DEIR is also inadequate, because it fails to discuss the impacts of fire fighting in open space areas of the project and in urban-open space interface areas. Cowell Ranch currently has a poor rating of Class Eight from the National Insurance Service Office due to its lack of sufficient water supply and inadequate response times. (DEIR p. IV.F-52.) Although much of the property will remain open space, the DEIR contains no discussion of water needs and response times for fighting fires in the open space areas. (See DEIR Tables 41 and 42.) Nor does the document contain an adequate discussion of the need to design development near open space areas with sufficient defensible space. These omissions are particularly important because of the danger that wildfires pose to adjacent developed areas. (See *Conditions for a 21st Century Community*, Fire Protection/Emergency Medical Service section, 76-B.)

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D. Parks and Recreation

The *Principles and Guidelines for Cowell Ranch* adopted by the Contra Costa County Board of Supervisors provides that the development plan for the project should include a comprehensive restoration and development program for the John Marsh Home (Guideline 4.e), yet the DEIR contains no discussion of such a program.

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E. Schools

The *Principles and Guidelines for Cowell Ranch* require the project to provide adequate schools to support the resident population. (Guideline 3.a; see also Guideline 2.d.) As discussed in the attached comments of Dr. Karen Weissman, the DEIR underestimates the number of students that will live in the project area, because it does not take into account the single family housing within the Multiple Family Residential Low

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designation. (See DEIR pp. III-22, IV.F-79; letter from Daniel M. Smith, Superintendent, Liberty Union High School District, Dec. 11, 1996.) The DEIR should analyze the impact of the project on schools based on accurate estimates of the number of students likely to live there.

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The measures proposed to mitigate the effects of the project on schools are too vague to allow the public and decision-makers to evaluate and comment on them. The DEIR proposes that the applicant submit a school financing and cost distribution plan, including a school phasing plan and bus service plan, but provides no details regarding the contents of those plans. (DEIR pp. IV.F-81, IV.F-83, IV.F-87.) Without such details, there is no basis for the conclusion that the effects of the project on schools will not be significant.

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Moreover, the mitigation measure proposed to alleviate the project's impact on local high schools addresses only funding and ignores both the need to find a suitable location and the potential environmental impacts that would result from building a new high school. (DEIR p. IV.F-84.) As explained in the attached comments of Dr. Weissman, a new high school will be needed on the Cowell Ranch site, and the feasibility of providing a high school on-site must be demonstrated in this DEIR. However, even if the school is located off-site, the analysis in the DEIR of development on project site does not address potential effects of the new high school. This omission violates the CEQA requirement that an EIR discuss the environmental effects of mitigation measures if they would cause significant effects beyond those caused by the project as proposed. (14 Cal. Code Regs. § 15126(c); see also *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986 [178 Cal.Rptr. 367].) The DEIR should discuss the potential traffic and other impacts of a new high school.

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F. Child Care

The discussion in the DEIR of the need for additional child care slots is misleading. While it states that the Brentwood area currently needs 13% more child care slots than are available, this figure combines all of the slots for infants, preschoolers, and school age children. (DEIR p. IV.F-89.) In reality, the area has a surplus of child care for preschoolers and a severe shortage for infants and school age children. (DEIR Table 52.) The area has only enough infant slots to fill 37% of the existing demand and only enough slots for school age children to fill 52% of the existing demand. The DEIR should take these shortages into account in its analysis of the project's impact on child care in the region.

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The mitigation measure proposed for the project's impact on child care is vague. The DEIR simply calls for the applicant to

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establish a child care mitigation plan and includes virtually no details regarding the contents of that plan.

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G. Solid Waste

The conclusion in the DEIR that the Cowell Ranch project will not have a significant effect on landfill capacity is inadequate. (DEIR p. IV.F-96.) The document states that, because the Keller Canyon Landfill is expected to have adequate capacity to serve Contra Costa County over the build-out period of the project, the effect of the project will be insignificant. This conclusion entirely ignores the fact that the project will continue to generate waste after the build-out period, at which time Keller Canyon Landfill is expected to be full. The DEIR completely fails to provide any information about on-going impacts on the landfill. The DEIR should provide a more complete analysis of the project impacts on landfill capacity, and propose mitigation measures to alleviate those impacts.

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IX. BIOLOGICAL RESOURCES

A project will normally have a significant impact if it will substantially affect a rare or endangered species or its habitat or substantially diminish habitat for fish, wildlife, or plants. (Guidelines 15380 and Appendix G.) A project that has the potential to "substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, [or] reduce the number or restrict the range of a rare or endangered plant or animal" may have significant effects on the environment which must be thoroughly evaluated in an EIR. (14 Cal. Code Regs. § 15065(a).)

The Cowell Ranch site is located in and adjacent to one of the most significant ecological resource areas in Contra Costa County. (See Contra Costa County General Plan, p. 8-4, 8-9 and 8-23.)

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The Cowell Ranch project will destroy important wildlife habitat and will likely harm several special status species both by direct injury to individual species members and by restricting the range of those species. As a result of these effects, the proposed project violates several provisions in the Contra Costa County General Plan, as well as state and federal laws designed to protect wildlife and their habitat. The DEIR must fully evaluate these potentially significant effects and propose feasible mitigation measures to reduce or eliminate them.

The DEIR fails to provide a sufficiently detailed description of the potential effect of the project on the biological resources on and around Cowell Ranch. The document compounds this failure by making the unsupported assumption that the project's many significant impacts on biological resources

will be reduced to less than significant through the implementation of vague and inadequate mitigation measures. By omitting a detailed discussion of project impacts and mitigation measures related to biological resources, the DEIR violates CEQA's fundamental goal that the public and decision-makers be fully informed of the environmental consequences of a proposed project. (14 Cal. Code Regs. § 15151; *Laurel Heights I*, supra, 47 Cal.3d 376, 404-05 [253 Cal.Rptr. 426, 439].)

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The following comments are in addition to those made in the attached letter of Dr. Karen Weissman of Thomas Reid Associates.

A. Grasslands

The project would destroy nearly one thousand acres of non-native grassland that provide important habitat for a variety of special status species, including the endangered San Joaquin kit fox. (DEIR p. IV.G-30.) The primary mitigation measure proposed for this significant impact is a grazing program on the remaining grassland on the site. (DEIR p. IV.G-32; Draft Habitat Management Plan: Cowell Ranch, May 3, 1996, pp. 55-58.) Yet most of Cowell Ranch is already used for grazing. Neither the DEIR nor the Draft Habitat Management Plan (HMP) explain how continued grazing on the remaining grassland mitigates the loss of nearly one thousand acres of grassland habitat. Neither document includes a description of existing grazing practices, how the proposed grazing program would differ, or why the proposed program will enhance the grassland habitat.

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Moreover, the additional mitigation measures suggested by the DEIR are vague. For example, the DEIR calls for the formulation and implementation of a *Resource Management Plan for Grasslands* as well as performance standards, monitoring protocols, and contingency measures, but provides no detail. Without a description of existing conditions and explanation of how the proposed mitigation measures will improve those conditions in the grasslands that will be preserved, there is no basis to conclude that the impact of destroying a thousand acres of grasslands on the site will be reduced to less than significant.

B. Wetlands

The DEIR contains an inadequate analysis of the project's impact on wetlands and other waters subject to section 404 of the Clean Water Act. The document fails to fully assess the existing wetlands on Cowell Ranch, nor does it ascertain whether suitable sites exist on the property to create mitigation wetlands. Neither the DEIR nor the Draft HMP provide sufficient detail regarding the location and design of replacement wetlands, performance standards for those wetlands, or contingency measures that would be implemented if the wetlands fail to meet the

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performance standards. Both documents also omit any discussion of whether altering portions of Cowell Ranch to create new wetlands will eliminate existing resources.

1. The DEIR Violates CEQA by Failing to Analyze Potentially Significant Wetland Impacts

Cowell Ranch contains wetlands "of considerable biotic value." (DEIR p. IV.G-39.) The DEIR notes that "[t]he complex of wetlands in the Briones Valley is one of the largest complexes of such habitat in the vicinity," and that these wetlands are particularly valuable because they occur near other important habitat areas, including grasslands and riparian forest, thereby providing an integrated ecosystem for many species that rely on a combination of these habitats. (Id.)

Section 404 of the Clean Water Act governs the filling of wetlands and other jurisdictional waters. (13 U.S.C. § 1344.) Federal regulations implementing section 404 state that wetlands are "special aquatic sites" because they possess important and easily disrupted ecological values that contribute to the overall environmental health of the entire region's ecosystem. (40 C.F.R. §§ 230.3(q-1), 230.41.) Wetlands perform valuable functions important to the public interest; for example, they provide wildlife habitat, water filtration, and flood protection. (33 C.F.R. § 320.4(b).) These attributes can be damaged or destroyed by fill and pollution. (40 C.F.R. § 230.41(b).)

The DEIR fails to adequately assess the wetlands on Cowell Ranch. Although it provides a general description of the various types of wetlands on the project site, the document does not include sufficient detail to fully inform the reader of the project's effects on wetlands. For example, the DEIR states that the site contains 0.4 acres of northern claypan vernal pools and acknowledges "that other seasonal wetlands of the site, of unknown size and number, are ecologically similar to northern claypan vernal pools," yet fails to identify and describe these other seasonal wetlands. (DEIR p. IV.G-9.)

One of the proposed mitigation measures is to identify the attributes and ecological functions of each kind of wetland habitat that would be affected by the project. (DEIR p. IV.G-41.) This information must be included in the DEIR, not simply compiled after project approval as a mitigation measure. The DEIR must evaluate project impacts in relation to existing conditions on the property. (14 Cal. Code Regs. § 15125.) Without information regarding the precise characteristics of the wetland ecosystems on Cowell Ranch, the public and decision-makers cannot evaluate the impact of destroying those wetlands or ascertain whether proposed mitigation measures will fully compensate for that impact.

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2. The DEIR Provides Insufficient Information to Determine Compliance with the Federal Policy Requiring No Net Loss of Wetland Function and Values

Because of the importance of wetland ecosystems, a permit to fill wetlands may be issued only for the least damaging practicable alternative. (40 C.F.R. § 230.10(a).) This requirement to select the least damaging alternative focuses on avoiding impacts to wetlands. (Memorandum of Agreement Between EPA and Dept. of the Army Concerning Mitigation Under Clean Water Act Section 404(b)(1) Guidelines, ¶ 2.C.1.; See also Contra Costa County General Plan, Conservation Element, Implementation Measure 8-1, p. 8-32.) Federal regulations presume that, for projects that are not water dependent, practicable alternatives that do not involve wetlands are available. (40 C.F.R. § 230.10(a)(3).) The DEIR must consider a mitigation measure which requires avoiding impacts to wetland. The impacts to be avoided include filling 28.5 wetland acres (including half of the vernal pools and approximately one-third of the seasonal freshwater marshland, wet meadows, and stock ponds on the site).

If filling wetlands is unavoidable, the DEIR should evaluate all feasible measures to minimize harm to wetlands. Federal policy calls for first minimizing the amount of wetland fill required and then compensating for any loss of wetlands by restoring degraded wetlands or creating new wetlands. (Wetlands Mitigation Memorandum ¶ II.C; 40 C.F.R. § 1508.20; see also, 40 C.F.R. § 230.75(c),(d).) Any compensatory mitigation should achieve the goal that there will be no net loss of wetland values and functions. (Wetlands Mitigation Memorandum, ¶ II.B.) In-kind compensatory mitigation is preferred. (*Id.* at ¶ II.C.) The wetland replacement ratio should include an adequate margin of safety to reflect the expected degree of success associated with the mitigation plan. (*Id.* at III.B.)

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The description in the DEIR of proposed measures to compensate for the destruction of existing wetlands is too vague to ascertain whether the replacement wetlands will comply with the federal policy calling for no net loss of wetland values and functions. The DEIR contains almost no details regarding whether appropriate replacement sites exist on the property, how the new wetlands will be created, whether the new wetlands will possess the same values and functions as those destroyed by the development, and what additional measures will be implemented if the new wetlands do not perform as anticipated.

For example, the DEIR states that 23.2 acres of seasonal pond/marsh and wet meadow habitat will be created within the horseshoe bend upstream of Marsh Creek Reservoir, yet does not explain why the hydrological features, soils and vegetation of that location that make it an appropriate place to create new

wetlands comparable to those they are intended to replace. (DEIR p. IV.G-40.) Neither the DEIR nor the Draft HMP describe the design of the new wetland area, prescribe performance standards, or suggest contingency measures if the wetlands fail to achieve designated performance standards. In addition, the DEIR does not describe the existing resources on that portion of the site or evaluate whether the proposed mitigation will harm those resources. Proposed mitigation measures for loss of riparian forest, vernal pools, and stock ponds are similarly flawed. (See DEIR pp. IV.G-39, IV.G-40.)

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Among the proposed wetland mitigation measures, the DEIR suggests that a Wetland Mitigation Plan be prepared. (DEIR p. IV.G-40.) The document also calls for the identification of the attributes of wetland habitat as well as the formulation of measurable performance standards, an implementation plan, a monitoring protocol, and contingency plans. (DEIR pp. IV.G-41, IV.G-42.) This information should be available and included in the DEIR so that the public and decision-makers can fully evaluate the environmental consequences of the project. Without this information, there is no basis to conclude that the proposed mitigation measures will reduce impacts to wetlands to a less than significant level.

3. Creation of New Vernal Pools Is an Inappropriate Mitigation Measure

As mitigation for the destruction of fifty percent of the northern claypan vernal pools on Cowell Ranch, the DEIR states that new vernal pools will be created. (DEIR p. IV.G-39; see also, Draft HMP pp. 60-61.) The document concludes that creating this new habitat will reduce the impact of the project on vernal pools to a less than significant level. (DEIR p. IV.G-39.) As discussed below and in the attached comments of Dr. Karen Weissman, artificially created vernal pools have not been successful in providing habitat for the threatened vernal pool fairy shrimp, and the U.S. Fish & Wildlife Service does not support creation of vernal pools as a mitigation measure. (See Department of the Interior, Fish & Wildlife Service, "Final Rule," 59 Federal Register 48136 (September 19, 1994).) Even if the lost vernal pools are replaced at a 2:1 ratio, the new pools will not comply with the federal policy requiring no net loss of function and values of wetlands. The DEIR therefore has no basis for concluding that the project impact on vernal pools will be insignificant.

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C. Special Status Species

The Cowell Ranch project is likely to have a significant effect on several species protected by state and federal law. The DEIR fails to provide adequate information regarding both project impacts on these species and proposed measures to

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mitigate those impacts. For some special status species, it seems unlikely that any efforts to mitigate project impacts will be effective without substantial changes in the project proposal.

Because of the potentially significant effects that the Cowell Ranch project will have on special status species, both state and federal regulatory agencies will need to approve parts of the proposal. In the absence of approval by the appropriate regulatory agencies and additional information regarding project impacts and mitigation measures, there is no basis for concluding that destroying habitat for special status species and potentially killing members of those species would not be a significant impact.

1. The Project Must Comply With the Requirements of the Federal Endangered Species Act

As discussed in more detail below, the Cowell Ranch project is likely to result in taking species that are protected by the federal Endangered Species Act. The Act prohibits the taking of any listed species without a permit. (16 U.S.C. § 1538(a)(1)(B).) Taking a species includes not only direct harm to a member of a listed species, but also habitat modification that actually injures the species by impairing breeding, feeding, or sheltering. (50 C.F.R. § 17.3; *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon* (1995) 115 S.Ct. 2407.)

A take may be permitted if it is incidental to an otherwise lawful activity. (16 U.S.C. § 1539(a)(1)(B).) To obtain a permit for the incidental taking of a listed species, the applicant must submit a conservation plan that specifies the impact likely to result from the taking, the steps the applicant will take to minimize and mitigate those impacts, the funding that will be available to implement such steps, and alternative actions to the taking and the reasons for not using those alternatives. (16 U.S.C. § 1539(a)(2)(A).) An incidental take permit may not be issued if it fails to minimize and mitigate the impact of the taking to the maximum extent practicable, fails to ensure adequate funding for the plan, or will appreciably reduce the likelihood of the survival and recovery of the species in the wild. (16 U.S.C. § 1539(a)(2)(B).)

The DEIR does not evaluate the project in light of these requirements. In the absence of such an evaluation, there is no basis for concluding that impacts will be mitigated or that permits will be issued.

2. The Analysis of Impacts on the San Joaquin Kit Fox is Inadequate

Cowell Ranch provides important habitat for the San Joaquin kit fox, a species listed as endangered under federal law and

threatened under California law. The proposed project would harm kit foxes by permanently destroying nearly fifteen hundred acres of kit fox habitat, degrading the remaining habitat on and near the site, restricting the migratory movement of kit foxes, and potentially causing direct kit fox mortalities as a result of construction activities and increased traffic generated by the project. (DEIR pp. IV.G-45, IV.G-47.) Project impacts to the kit fox would be significant under all four of the significance criteria listed in the DEIR: the project will substantially affect the endangered kit fox and its habitat, interfere substantially with the movement of the kit fox, substantially diminish kit fox habitat, and conflict with several provisions of the Contra Costa County General Plan that protect endangered species. (See DEIR p. IV.G-27.) The DEIR fails to adequately evaluate these impacts and propose feasible mitigation measures that would render them insignificant. Consequently, it has no basis to conclude that project impacts on kit foxes will be less than significant.

The primary measure proposed to mitigate the destruction of fifteen hundred acres of kit fox habitat is to manage the remaining grasslands on the site as kit fox habitat, mainly by implementing a grazing program. (DEIR pp. IV.G-47, IV.G-48; Draft HMP pp. 55-57.) This mitigation plan will not compensate for the harm to kit foxes for several reasons. As noted in the discussion of grassland impacts, most of Cowell Ranch is already used for grazing, yet neither the DEIR nor the Draft HMP explain how continued grazing on the remaining grassland will differ from the existing use of the site or will mitigate the loss of nearly fifteen hundred acres of grassland habitat. Maintaining lands that already serve as kit fox habitat cannot be counted as mitigation for the destruction of adjacent kit fox habitat, because such a significant habitat reduction will cause habitat fragmentation, and the land maintained as habitat will be degraded as a result of its proximity to the development.

As an added mitigation measure, the DEIR suggests that the developer be required to provide an additional 768.3 acres of kit fox habitat off-site to compensate for the permanent loss of habitat, yet the document includes no discussion of whether such compensatory habitat is available in the project vicinity or what measures would be necessary to acquire, enhance, and permanently protect that habitat. (DEIR pp. IV.G-49, IV.G-50.)

The DEIR is also inadequate in its discussion of how the proposed development will degrade the remaining kit fox habitat on Cowell Ranch. The project calls for a regional trailhead adjacent to the terminus of Marsh Creek Road that would provide access to hiking, bicycle, and pedestrian trails and possibly parking, picnic tables, and fields. (DEIR p. IV.F-69; S.H. Cowell Foundation, Cowell Ranch P-1 Planned Unit Dev't Stds., March 25, 1996, pp. 32-33.) The purpose of this trailhead is to

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offset the impact on regional park facilities created by an estimated 13,076 project residents. (DEIR p. IV.F-69.) If this trailhead is located on the project site, it would be in an area designated as kit fox mitigation lands. (Compare Cowell Ranch P-1 Planned Unit Dev't Stds., p. 35 with Draft HMP p. 52.) Human activity and the development of facilities at the trailhead would severely limit the area's usefulness as kit fox habitat and would create significant conflicts between kit foxes and humans. Moreover, the DEIR and Draft HMP are inconsistent regarding the use of mitigation lands. The statement in the DEIR that the trailhead would provide access to bicycle trails in the open space areas conflicts with the statement in the Draft HMP that recreational use of mitigation lands will be limited to hiking and horseback riding. (Draft HMP p. 55.)

Human activity will also degrade the kit fox habitat on the site by introducing more dogs and cars to the area. The Draft HMP notes that dogs will be allowed in the mitigation lands. (Draft HMP, p. 62.) Neither the DEIR nor the Draft HMP discuss whether allowing dogs in the mitigation lands will discourage kit fox use of the area or whether it is realistic to assume that enforcement of the County leash law would be an effective measure to limit the impact of bringing dogs into the region. The Draft HMP states that additional traffic generated by the project will likely result in kit fox fatalities, yet the DEIR fails to discuss this potentially significant impact. (Draft HMP p. 51.) The DEIR provides no basis for concluding that impacts to the kit fox can be mitigated.

3. The Mitigation Measures Proposed for Fairy Shrimp Will Not Be Effective

Several wetlands on Cowell Ranch provide habitat for vernal pool fairy shrimp, a species listed as threatened under federal law. The project would destroy six seasonal wetlands known to support vernal pool fairy shrimp, as well as numerous other wetland areas that potentially provide habitat for that species and the longhorn fairy shrimp, a federally listed endangered species. (DEIR p. IV.G-51.) Contrary to the conclusion in the DEIR, the proposed mitigation measures will not reduce the project impacts on this species to an insignificant level.

As discussed in the attached comments of Dr. Karen Weissman and in the above section on wetlands, attempts at creating artificial vernal pools have been unsuccessful. The U.S. Fish and Wildlife Service has found that:

There are no demonstrated proven long-term populations of the fairy shrimp or the vernal pool tadpole shrimp in artificial habitats. Artificially created habitats also may increase the threat of hybridization between the four fairy shrimp and other more widespread species. . . . Given these

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uncertainties associated with vernal pool creation, the Service maintains that transplanting target species (e.g., listed, proposed, and candidate species) into artificial pools cannot be considered adequate replacement for the loss of occupied vernal pool habitat. . . . As a result, the Service concludes that the continued survival and recovery of the three fairy shrimp and the vernal pool tadpole shrimp only can be assured, at this time, by the preservation of extant vernal pools and their associated watersheds. (59 Federal Register 48136, emphasis added.)

In light of these findings by the U.S. Fish and Wildlife Service, there is no basis for concluding that a proposal to create vernal pool habitat artificially to replace habitat destroyed by the project would mitigate the impacts on federally-listed endangered and threatened fairy shrimp. To compound this erroneous conclusion, both the DEIR and the Draft HMP fail to discuss contingency measures that will be implemented if the creation of new vernal pools is ineffective. The documents contain no discussion of whether suitable locations exist on Cowell Ranch to attempt additional mitigation. Because of the high level of uncertainty involved in creating new habitat for fairy shrimp, the existing vernal pools should be preserved. At a minimum, the new pools and wetland areas should be constructed and demonstrate that they successfully recreate the habitat they are intended to replace before the existing habitat is destroyed.

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Moreover, given the position of the U.S. Fish and Wildlife Service regarding the lack of success associated with artificially created vernal pools, it seems unlikely that the applicant will be able to obtain the federal permits necessary to destroy the vernal pools on Cowell Ranch. The project applicant must obtain a permit from the Army Corps of Engineers under section 404 of the Clean Water Act to fill wetlands and vernal pools on Cowell Ranch. (33 U.S.C. § 1344.) Before issuing any such permit, the Corps will be required to consult with the U.S. Fish and Wildlife Service.

Federal agencies must consult with the U.S. Fish and Wildlife Service to ensure that actions they authorize are "not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary . . . to be critical" (16 U.S.C. § 1536(a)(2); see also, 50 C.F.R. § 402.14.) During this consultation process, the agency and the permit applicant may not irretrievably commit resources to an action that would foreclose the implementation of alternative measures which would not jeopardize the species. (16 U.S.C. § 1536(d).) In addition, the regulations implementing section 404 of the Clean Water Act prohibit the issuance of a permit if it will jeopardize the

continued existence of a listed species. (40 C.F.R. § 230.10(b)(3).)

In view of the substantial hurdle imposed by federal regulation, the DEIR must propose project modifications and realistic mitigation measures that will avoid impacts to fairy shrimp. Otherwise, it fails as an informational document.

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4. The Discussion of Impacts on the California Tiger Salamander Is Inadequate

The Cowell Ranch project would destroy over four acres of aquatic breeding habitat used by the California tiger salamander as well as over one thousand acres of upland habitat that the salamanders use for aestivation. (DEIR p. IV.G-53.) The California tiger salamander is a federal candidate endangered species -- the U.S. Fish and Wildlife Service has announced that listing of the species is warranted but that immediate listing is precluded by listing actions on higher priority species. (Draft HMP p. 26.) The tiger salamander is a state species of special concern. (Draft HMP p. 25.) Adverse impacts to this species should be considered significant under CEQA. (14 Cal. Code Regs. § 15380 and Appendix G.)

While the Draft HMP calls for the replacement of aquatic breeding habitat, it does not discuss whether that habitat will be located in areas that contain suitable aestivation habitat. (Draft HMP p. 48.) Moreover, as it does with regard to kit fox habitat, the DEIR concludes that impacts resulting from the loss of over one thousand acres of tiger salamander habitat will not be significant because the project will preserve the remaining suitable upland habitat on the site. Yet preservation of upland habitat cannot be considered mitigation for the destruction of adjacent habitat without assurance that the configuration of breeding habitat in relation to upland habitat is appropriate.

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The DEIR states that a California Tiger Salamander Mitigation Plan will be prepared with clearly-stated goals, performance standards, and contingency measures to mitigate the project impacts on the salamander. Without details regarding the contents of this plan, there is no basis for concluding that the project will not have a significant impact on this species.

5. The DEIR Contains an Inadequate Discussion of Impact on Protected Bird Species

The Migratory Bird Treaty Act (MBTA) makes it unlawful to kill any migratory bird by any means or in any manner, except as permitted by a valid permit issued pursuant to regulations. (16 U.S.C. § 703; *Seattle Audubon Soc'y v. Evans*, 952 F.2d 297, 302 (9th Cir. 1991); see also 50 C.F.R. § 21.11.) This prohibition includes direct but unintended bird deaths. (*Seattle Audubon*

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Soc'y, 952 F.2d at 303.) Many of the bird species that roost and breed in woodland on Cowell Ranch are protected by the Migratory Bird Treaty Act (MBTA). (Compare DEIR pp. IV.G-10, IV.G-11 with 50 C.F.R. § 10.13.) In addition, under section 3503.5 of the California Fish and Game Code, it is unlawful to "destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey)." Despite these prohibitions against killing protected birds, the DEIR does not discuss any measures to avoid killing birds that roost and breed in the blue oak and riparian woodland that will be destroyed by the project.

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One potential mitigation measure would be to require preconstruction surveys to determine whether birds are nesting in the affected areas, and if they are, postpone cutting down the trees until after the nesting season.

The burrowing owl is listed by the California Department of Fish and Game as a species of special concern. In addition, burrowing owls are protected by both the Migratory Bird Treaty Act (16 U.S.C. § 703) and section 3503.5 of the California Fish and Game Code. Because the Department of Fish and Game has determined that breeding populations in California face extinction, impacts to the burrowing owl should be considered significant. (14 Cal. Code Regs. §15380 and Appendix G.) The measures to avoid or minimize these adverse effects described in the DEIR are inadequate. For example, the document does not provide for the creation of new burrows for any burrows that would be destroyed, as recommended by the California Department of Fish and Game. (See attached comments of Dr. Karen Weissman.) Without more detail regarding the relocation plan, there is no basis for concluding that the project will not have a significant impact on burrowing owls.

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D. Inconsistency with Contra Costa County General Plan

Because of the many deficiencies noted above, the Cowell Ranch project is inconsistent with numerous provisions of the Contra Costa County General Plan, including the following:

- To preserve and protect the ecological resources of the County. (Conservation Element, Goal 8-A, page 8-3)
- To conserve the natural resources of the County through control of the direction, extent and timing of urban growth. (Conservation Element, Goal 8-B, page 8-3)
- Watersheds, natural waterways, and areas important for the maintenance of natural vegetation and wildlife populations shall be preserved and enhanced. (Conservation Element, Policy 8-3, page 8-3)

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- To protect ecologically significant lands, wetlands, plant and wildlife habitats. (Conservation Element, Goal 8-D, page 8-26)
- To protect rare, threatened and endangered species of fish, wildlife and plants, significant plant communities, and other resources which stand out as unique because of their scarcity, scientific value, aesthetic quality or cultural significance. Attempt to achieve a significant net increase in wetland values and functions within the County over the life of the General Plan. (Conservation Element, Goal 8-E, page 8-26)
- Significant trees, natural vegetation, and wildlife populations generally shall be preserved. (Conservation Element, Policy 8-6, page 8-26)
- Important wildlife habitats which would be disturbed by major development shall be preserved, and corridors for wildlife migration between undeveloped lands shall be retained. (Conservation Element, Policy 8-7, page 8-26)
- Areas determined to contain significant ecological resources, particularly those containing endangered species, shall be maintained in their natural state and carefully regulated to the maximum legal extent. (Conservation Element, Policy 8-9, page 8-26)
- Any development located or proposed within significant ecological resource areas shall ensure that the resource is protected. (Conservation Element, Policy 8-10, page 8-29)
- Natural woodlands shall be preserved to the maximum extent possible in the course of land development. (Conservation Element, Policy 8-12, page 8-29)
- The critical ecological and scenic characteristics of rangelands, woodlands, and wildlands shall be recognized and protected. (Conservation Element, Policy 8-13, page 8-29)
- Existing vegetation, both native and non-native, and wildlife habitat areas shall be retained in the major open space areas sufficient for the maintenance of a healthy balance of wildlife populations. (Conservation Element, Policy 8-15, page 8-29)
- The County shall strive to identify and conserve remaining upland habitat areas which are adjacent to wetlands and are critical to the survival and nesting of wetland species. (Conservation Element, Policy 8-24, page 8-30)

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- Seasonal wetlands in grassland areas of the County shall be identified and protected. (Conservation Element, Policy 8-27, page 8-30)
- All efforts shall be made to identify and protect the County's mature native oak, bay, and buckeye trees. (Conservation Element, Policy 8-28, page 8-30)

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The DEIR fails to discuss or provide information about these inconsistencies. In the absence of such a discussion and information, the DEIR has no basis for determining whether these inconsistencies meet the standard of significance set forth in the DEIR (DEIR, p. IV.A-31), and cannot fulfill its purpose as an informational document.

X. MINERAL RESOURCES

The DEIR states that the sand deposit on the site should be mined before residential development is allowed on the site. The DEIR suggests as a mitigation measure that someone (the County or the applicant?) should "revise the project to include mining of this resource as part of the proposed project activities ..." (DEIR, p. IV.H-5.) However, the DEIR does not provide any information whatsoever regarding the environmental impacts of mining.

The DEIR states that an estimated 96,000 net tons of sand were removed from the property when the site was mined from the 1920's to the 1940's. (DEIR, p. IV.H-1.) The DEIR further states that 72% of the resource remains. Therefore, approximately 342,000 tons of sand remain to be mined. The site is not being mined at the present time.

This mining will undoubtedly cause adverse environmental impacts, including truck traffic, dust and air pollution from the trucks and mining equipment, noise, public health impacts from the crystalline silica dust, and other impacts. Yet, the DEIR provides no information about these potential environmental impacts.

Section 15126(c) of the CEQA Guidelines provides that "[i]f a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed."

The DEIR acknowledges that quarrying sand causes potentially significant noise impacts. (DEIR, p. IV.L.-33: discussion of noise impacts from Kellogg Creek Sand Quarry.) Quarrying sand could also cause significant traffic, dust and air pollution impacts. Sand contains crystalline silica, which is listed by

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the State of California as a known carcinogen. (22 Cal.Code Regs. § 12000(b).) Dust from the quarry could have significant adverse public health impacts. The DEIR must be revised to consider these impacts. If they are found to be significant, the DEIR must be recirculated for public comment. (CEQA Guidelines § 15088.5(a)(1).)

Further, the DEIR acknowledges County policies which preclude authorization of inconsistent land uses. Yet, the DEIR states only that development of some listed planning areas should not occur until after the mining has been completed. (DEIR, p. IV. H-5.) However, there is no discussion of whether allowing mining is compatible with the development that is proposed prior to completion of mining.

The DEIR describes provisions of the State Surface Mining and Reclamation Act of 1975, but does not state whether the sand on the site has been designated as being of statewide significance, so that the applicability of SMARA can be determined.

The DEIR proposes as a mitigation measure that the applicant submit an "approved" Mine Closure and Reclamation Plan. (DEIR, p. IV.H-5.) The DEIR does not indicate what agency would approve such a plan or whether there are standards for such plan approval. Further, there is no basis for a determination that the mitigation measure will mitigate the acknowledged potentially significant impacts unless the provisions of such a plan are known. (DEIR, p. IV.H-6.) The DEIR should state that there is not sufficient information reasonably available to support a full assessment of potential impacts in the master EIR (§ 21157(b)(3)). This would ensure that future environmental review would be conducted prior to determining whether mining should resume and prior to determining whether a mine closure and reclamation plan adequately mitigates the impacts of mine closure.

XI. CULTURAL RESOURCES

The project site contains several identified prehistoric and historic cultural resources. The disturbance of these resources may be particularly significant due to the fact that very little is known about the native inhabitants of this area.¹⁵ Many of

¹⁵ The EIR for the State Route 4 Bypass contained the following quotation:

No large section of California is so little known ethnographically as the lower or northern San Joaquin Valley. The lack of information concerning the aboriginal inhabitants of this region is due to their

these resources are in areas slated for development. (DEIR, p. IV.I-8.) Yet the DEIR improperly defers analysis of these impacts and the formulation of specific mitigation measures. (Weissman, p. 20.)

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In addition, due to the potential disturbance of Native American burial sites, the project likely triggers consultation with the State Native American Heritage Commission. (Pub. Res. Code § 5097.94.) The DEIR does not indicate whether this consultation has occurred.

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A. Inadequate Impacts Analysis

The DEIR does not contain sufficient information about the extent of the project's potential impacts to prehistoric and historic resources. This prevents the public from commenting on these impacts. It also fails to provide County decisionmakers with adequate information to make a decision about the project's impacts and whether they can and will be mitigated.

For example, prehistoric sites CA-CCo-18, CA-CCo-438, and CA-CCo-548 are all believed to be part of one contiguous site. (DEIR, p. IV.I-14.)¹⁶ Site 18 is already listed on the National Register of Historic Places. Presumably, sites 438 and 548 may also be eligible for listing. These sites clearly are important cultural resources. Yet the DEIR fails to disclose the extent to which these sites may be disturbed; it merely states that the project "could disturb" these sites. (DEIR, pp. IV.I-13 to -15.) Similar treatment is given to the historic sites. (DEIR, pp. IV.I-15 to -17.)

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The DEIR states that substantial mass grading has been proposed for several areas of the project site, and minor to major grading is proposed for 1,312 acres of the site. (DEIR,

rapid disappearance as a result of disease, missionization, and the sudden overrunning of their country by American miners and settlers during the Gold rush years (1978:462).

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(State Route 4 Bypass Project DEIR, Vol. 3, p. K.7 (Oct. 1993) (quoting William J. Wallace, Vol. 8, The Handbook of North American Indians).)

¹⁶ For ease of reference, cultural sites will be referred to only by their last three digits. For example, site CA-CCo-438 will be referred to as site 438.

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pp. IV.D-28 to 29.)¹⁷ But there is no discussion of the type or extent of the potential disturbance of these sites (e.g., whether these the sites would be destroyed by excavation). At the very least, the public and the County should be informed whether the identified prehistoric and historic sites are located in areas proposed to be graded or otherwise disturbed.

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B. Deferral of Mitigation Measures

The dearth of information about impacts to cultural resources is compounded by the vagueness of the mitigation measures proposed for these impacts. For all but one of the sites, the proposed mitigation is to avoid the site "if feasible." If avoidance is not feasible, an "appropriate" mitigation program is to be developed. (See DEIR, pp. IV.I-14 to -17, Mitigation Measures CR-1, CR-2, CR-3, CR-4, and CR-5.)

There simply is no way for the public to comment on the adequacy of this purported mitigation or for the County decision-makers to evaluate its significance. There is no way for the public to know whether and to what extent these sites may be disturbed, when it is "feasible" to avoid the site, and what type of mitigation will be deemed "appropriate" if the sites are disturbed. This is not mitigation; it is postponed mitigation. (Weissman, p. 20.) As previously discussed, the courts have repeatedly held that this approach violates CEQA. (Sundstrom, supra, 202 Cal.App.3d at pp. 306-08.)

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This deferral of mitigation also violates CEQA's express mandates regarding mitigation of archaeological resource impacts. CEQA section 21083.2 establishes standards for determining whether a project may have a significant impact on archaeological resources, and prescribes specific methods for mitigating such impacts. (See also Guidelines, Appendix K.) If avoidance of the resource is not possible, the project applicant must guarantee to pay 50% of the estimated mitigation costs up to a certain percentage of the project cost. (§ 21083.2(c)-(e).) If the applicant does not agree to pay the full costs of mitigation, the lead agency must provide a 60-day period after completion of the EIR and before project approval. This allows time for interested persons to provide voluntary funding guarantees for the unfunded portion of the mitigation. (§ 21083.2(c).)

Section 21083.2 plainly indicates that plans for mitigation of impacts to known archaeological sites must be developed before

¹⁷ This represents more than 100% of the acreage to be developed. (See DEIR, pp. II-1 to 2 (of site's 4,277 acres, 1,269 acres are to be developed, 3,008 are to remain open space).)

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the project is approved.¹⁸ The fact that a detailed development plan may not yet be available does not excuse the failure to analyze adequately and mitigate impacts to identified cultural resources, especially when the DEIR purports to analyze full development of the Cowell Ranch project. (DEIR, p. III-44.)

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The current DEIR does not fulfill its function as an information document and does not provide substantial evidence that cultural resource impacts have been mitigated to insignificance. The DEIR must be revised to provide a full discussion of impacts and specify how these impacts will be mitigated.

C. Failure to Consult with Native American Heritage Commission

The State Native American Heritage Commission ("NAHC") is charged with the duty of identifying graves and cemeteries of and places of special religious and social significance to Native Americans. (Pub. Res. Code § 5097.94(a).) Local agencies must cooperate with the NAHC in the fulfillment of these duties. (§ 5097.95.) This cooperation includes, but is not limited to, providing the NAHC with relevant sections of EIRs where the EIRs relate to property identified by the NAHC to be of special religious significance to Native Americans, or for which it is reasonably foreseeable to be of such significance. (Id.)¹⁹

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The project site was historically occupied by Native Americans. (DEIR, pp. IV.I-6.) There are eleven registered prehistoric sites, one of which is on the National Register of Historic Places. (DEIR, pp. IV.I-2.) At least two of these sites (CA-CCo-18, CA-CCo-548) contain Native American burials. (DEIR, pp. IV.I-3, -4.)

This information indicates that there are places of special religious and social significance to Native Americans at the project site. Thus, the NAHC must be consulted during the decision-making process. Notifying the NAHC of these potential impacts after project approval or in the event these resources are disturbed is not sufficient.

¹⁸ Deferral of mitigation for historical resources is appropriate where a site is accidentally discovered during the construction process. (§ 21083.2(i).)

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¹⁹ See *Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 216 Cal.Rptr. 502 (setting aside approval of timber harvest plan because Department of Forestry failed to consult with the NAHC and provided inadequate response to the NAHC's comments regarding damage to culturally significant site).

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The DEIR does not indicate whether the NAHC was consulted, and the NAHC is not listed in the "Organizations and Persons Contacted." (DEIR, § VIII.) The NAHC should be provided with a copy of the DEIR and given the opportunity to comment on these impacts.

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XII. AIR QUALITY

A. Mining

The DEIR proposes as a mitigation measure for impacts on mineral resources that the project include mining of sand from the existing quarry. (DEIR, p. IV.H-5.) If sand is to be mined, then the DEIR must consider the environmental impacts of that mining. Such impacts include air pollutant emissions from mining equipment and emissions of particulates from the mining itself (including emissions of crystalline silica, which is listed by the State of California as a known carcinogen. (22 Cal.Code Regs. 12000(b).))

Crystalline silica causes public health impacts. According to the BAAQMD CEQA Guidelines, any project with the potential to expose residential areas or the general public to substantial levels of toxic air contaminants would be deemed to have a significant impact. (BAAQMD CEQA Guidelines (1996), p. 17.) The District has established significance thresholds for toxic air contaminants. The thresholds are: the probability of contracting cancer for the Maximally Exposed Individual (MEI) exceeds ten in one million or the ground-level concentrations of non-carcinogenic toxic air contaminants would result in a Hazard Index greater than one for the MEI. (Ibid.) The DEIR should adopt these or other threshold requirements and determine whether quarrying could cause significant impacts due to dust containing crystalline silica.

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B. Construction Air Pollution Emissions

The DEIR suggests mitigation measures for air pollution emissions from construction, stating that the proposed measures are those that the BAAQMD considers to be feasible. (DEIR, p. IV.K-10.) The DEIR has omitted one measure which is on the BAAQMD list, and it should be added: cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. (BAAQMD CEQA Guidelines (1996), Table 2, p. 14.)

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California Vehicle Code section 23114 requires additional measures to prevent rock, pebbles, sand, dirt and gravel from dropping, sifting, leaking, blowing, spilling or otherwise escaping from the vehicle hauling the material, and those provisions should also be required as mitigation measures.

The South Coast Air Quality Management District also lists additional mitigation measures for PM₁₀ emissions, and these measures should also be required. They are: monitor for particulate emissions during construction, pave construction roads that have a traffic volume of more than 50 daily trips by construction equipment, 150 total daily trips for all vehicles, pave all construction access roads at least 100 feet on to the site from the main road, and pave construction roads that have a daily traffic volume of less than 40 vehicular trips. (SCAQMD CEQA Air Quality Handbook (April, 1993), Table 11-4, p. 11-16.) The DEIR should discuss all of these mitigation measures.

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C. Carbon Monoxide

The DEIR states that the Bay Area is currently a non-attainment area for carbon monoxide. (DEIR, p. IV.K-6.) The DEIR also shows that the project adds to carbon monoxide concentrations near major intersections (SR 4 Bypass/Balfour in the year 2025 and SR 4 Bypass/Marsh Creek in the year 2010). (DEIR, p. IV.K-15.) Yet, the DEIR considers this impact to be less-than-significant. (DEIR, p. IV.K-14.)

There is no basis for determining whether this impact is significant in the absence of any information about the carbon monoxide concentrations at those intersections today. Project impacts and cumulative impacts can only be measured against existing conditions.²⁰ In the absence of any information about

²⁰ CEQA defines "environment" as the physical conditions which exist within the area which will be affected by a proposed project. (§ 21060.5; see also 14 Cal. Code Regs. § 15360.) The CEQA Guidelines further provide that "[a]n EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and regional perspective. The description shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives." (14 Cal. Code Regs. § 15125; emphasis added.)

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The Guidelines also provide that "[w]here a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions as well as the potential future conditions discussed in the plan." (14 Cal. Code Regs. § 15125(c).)

These provisions are based on the decision in *EPIC v. County of El Dorado* (1982) 131 Cal.App.3d 350 [182 Cal.Rptr. 317]. In that case, the court held that where the county considered the environmental impacts of a new general plan, the appropriate comparison was with the existing level of actual development, not the level of development that was allowed by the old general

existing carbon monoxide concentrations, it is not possible to determine whether project impacts or cumulative impacts would be significant.

The DEIR does not provide any information as to whether the project by itself, or together with reasonably foreseeable past, present and future project, causes a significant impact on carbon monoxide emissions. Without such information, the DEIR is not adequate.

Additionally, the BAAQMD CEQA Guidelines require that an EIR must analyze carbon monoxide for all intersections which cause the LOS to decline to D, E, or F, or which impact intersections operating at D, E, or F. (BAAQMD CEQA Guidelines (1996), p. 15.) The DEIR does not state whether this was done.

D. Relevant Goals and Policies

1. Contra Costa County General Plan

The DEIR lists Contra Costa County General Plan policies pertaining to air quality, but does not discuss whether the project is consistent with those policies, as required by CEQA. (CEQA Guidelines, § 15125(b).) The project is clearly inconsistent with many of the General Plan policies, including the following.

The project is not consistent with the General Plan policy to meet federal air quality standards for all pollutants. (DEIR, p. IV.K-7.) The DEIR states that concentrations of ozone and PM₁₀ exceed the federal ambient air quality standards. (DEIR, p. IV.K-4.) The DEIR finds that the "[t]here is currently no practical way to reduce the project [criteria] emissions by the over 90 percent increment that would be necessary to bring the project impacts below BAAQMD significant thresholds for reactive organic gases (ROG), oxides of nitrogen (NO_x) and PM₁₀. Therefore, the project's impacts on regional air quality are considered significant and unavoidable." (DEIR, p. IV.K-14.) The DEIR should state that the project conflicts with the General Plan policy, as required by CEQA.

plan. Similarly in *Christward Ministry v. Superior Court* (1986) 228 Cal.Rptr. 868, the court required an agency to consider the environmental impacts of the proposed project on the existing physical environment, not on the environment as it would be developed under a previously approved plan. (See also, *City of Carmel*, *supra*, 183 Cal.App.3d at 229 [227 Cal.Rptr. 899], requiring consideration of impacts on the existing environment, not on a future environment.)

Nor is the project consistent with the General Plan policies to continue to support federal, state and regional efforts to reduce air pollution and to restore air quality in the area to a more healthful level (DEIR, p. IV.K-7), because the project increases air pollution. (DEIR, p. IV.K-14).

The project is inconsistent with the General Plan policy to reduce the percentage of Average Daily Traffic trips occurring at peak hours. (DEIR, p. IV.K-7.) Instead, of reducing the traffic trips at peak hours, the project increases them. Phase I of the project adds 2,728 vehicle trips to the morning peak hour and 3,345 trips to the evening peak hour. Phase II of the project adds 5,043 trips to the morning peak hour and 7,001 trips to the evening peak hour. (DEIR, p. IV.C-45.) This has a detrimental impact on air quality.

Far from complying with the General Plan policy to facilitate free flow of vehicular traffic on major arterials (DEIR, p. IV.K-7.), the project adds traffic to major arterials which are already congested. (DEIR, p. IV.C-71, Table 26.) For example, SR 4 is already operating at an unacceptable level of service (F) west of Lone Tree Way and west of Sommersville Road at the morning and evening peak hours. (Ibid.) Rather than facilitating free flow of vehicular traffic on these arterials, the project is adding to an already unacceptable level of service. Similarly Vasco Road is also operating at LOS F, and the project is adding traffic to that arterial in both the morning and evening peak hours. (Ibid.) SR 4 east of Bixler Road and Deer Valley Road north of Balfour Road are operating at LOS E, and the project is adding traffic to those arterials during both the morning and evening peak hours. (Ibid.)

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The project is also inconsistent with the General Plan policy that "vehicular emissions shall be reduced throughout the County." (DEIR, p. IV.K-7.) Instead of reducing vehicular emissions, the project is increasing them. (DEIR, p. IV.K-14.)

The General Plan policy is that where there is a finding that a proposed project might significantly affect air quality, appropriate mitigation measures shall be imposed. (DEIR, p. IV.K-7.) However, this project leaves significant air quality impacts unmitigated. (DEIR, p. IV.K-14.)

Although the General Plan policy states that proposed projects shall be reviewed for their potential to generate hazardous air pollutants (DEIR, p. IV.K-7), the DEIR does not evaluate the potential for emissions of crystalline silica from the quarry, and does not evaluate the potential for hazardous air pollutants from the PG&E natural gas compression facility which periodically emits natural gas (DEIR, p. IV.K-16).

Nor does the project comply with General Plan policies to separate sensitive uses from sources of air pollution and to ensure that buffer zones are provided between sources of hazardous pollutants and sensitive uses such as residences (DEIR, p. IV.K-7, 8), as the quarry is near proposed residential uses (DEIR, p. IV.H-2), and the PG&E facility is near proposed park and recreational uses (DEIR, p. IV.K-16).

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The DEIR does not discuss whether the project is consistent with the General Plan policy to provide jobs through "local hire" policies. (DEIR, p. IV.K-8.)

2. Bay Area Clean Air Plan

The CEQA Guidelines specifically require that an EIR "shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable Air Quality Management Plan ..." (Guidelines § 15125(b).) Yet, the DEIR completely fails to discuss the applicable air quality management plan.

The 1994 BAAQMD Clean Air Plan (CAP) contains a transportation control measure designed to encourage cities and counties to address the air quality impacts of local activities by adopting and implementing air quality-beneficial plans, policies and programs. (CAP, Vol. II, p. F-36.) Reducing air pollution related to the use of motor vehicles is the primary goal. Implementation strategies include encouraging compact community land use patterns, zoning for higher densities and mixed uses near transit centers and corridors, increasing the supply of housing near employment, restricting parking in downtowns and at job centers, improving transit service, and adopting community, neighborhood and site design standards that provide safe, convenient and attractive environments for pedestrians, bicyclists and transit users. (CAP, Vol. II, p. F-36, 37.)

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The DEIR should discuss whether the proposed project is consistent with this transportation control measure. Clearly the project does not comply with the provisions regarding compact community land use patterns, zoning for higher densities and mixed uses near transit corridors, or increasing the supply of housing near employment. Instead, the project increases use of motor vehicles because there is no substantial evidence to show that employment centers will locate in or near the project and the project is not readily accessible to public transit.

E. Transportation Emissions

As discussed in the attached letter from Daniel T. Smith, Jr., P.E., the transportation impacts have been significantly

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underestimated. The DEIR states that the air pollutant emissions from vehicles were estimated using the output from the transportation model that was used in projecting traffic impacts. (DEIR, p. IV.K-11.) Because transportation impacts have been underestimated, the air quality impacts from transportation have also been underestimated. The discussion of air pollutant emissions should be revised to reflect a corrected estimate of traffic impacts.

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F. Direct Project Emissions

The DEIR notes that direct project emissions would come from residential uses and states that those emissions would not be significant. (DEIR, p. IV.K-11.) However, the DEIR does not provide any information as to the quantity of emissions from those sources and consequently, there is no basis in the EIR for concluding that those sources would not be significant. Nor is there any way to determine whether proposed mitigation measures for those sources would be effective. The DEIR should provide information as to the amount of emissions and the reduction that could be expected from the proposed mitigation measures.

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G. Traffic Toward Livermore Valley

1. The DEIR is Internally Inconsistent

The DEIR contains internally inconsistent statements about traffic toward Livermore Valley. In the discussion of impacts on air quality, the DEIR states that a "significant amount" of vehicle traffic generated by the project would be directed toward destinations within the Livermore Valley via Vasco Road and I-580. (DEIR, p. IV.K-13.) However, in the discussion of impacts on traffic, the DEIR shows that the project would reduce morning and evening peak hour trips on I-580 both east and west of Vasco Road (DEIR, p. IV.C-70.) The DEIR further shows that the project would add only four trips on Vasco Road south of Camino Diablo during the morning peak hour (DEIR, p. IV.C-70). North of I-580 the project would add only ten morning trips to Vasco Road. (DEIR, p. IV.C-70.)²¹

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Reducing traffic on I-580 and adding only a small amount of traffic on Vasco Road in the evening is not consistent with the statement that the project would add a "significant amount" of

²¹ The DEIR should explain why traffic on Vasco Road is divided into two portions, Vasco Road south of Camino Diablo and Vasco Road north of I-580. The DEIR should explain why there is a different amount of project traffic on each portion of this road (four trips in the northern section and ten trips in the southern section in the morning). These should all be the same trips.

traffic to these roads. The DEIR should explain this inconsistency.

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2. The DEIR Does Not Quantify Air Quality Impacts

The DEIR states that the additional traffic directed toward the Livermore Valley would make a significant contribution to air quality problems within the Livermore Valley sub-air basin. (DEIR, p. IV.K-13.) However, the DEIR does not quantify this impact. Therefore, it is not possible to determine whether this impact can be mitigated.

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Nor is there any discussion of the cumulative impact on the Livermore Valley sub-air basin. The DEIR states that cumulative impacts were considered using the Travel Model of East Contra Costa County. (DEIR, p. VI-6.) However, the Livermore Valley is in Alameda County, and therefore was not included in the cumulative impacts analysis of air quality impacts from traffic. The DEIR should provide information about cumulative air quality impacts on the Livermore Valley.

H. Mitigation Measures

The DEIR states that mitigation measures include components, strategies and programs in the Cowell Ranch development plan which are designed to reduce traffic and associated air quality impacts. (DEIR, p. IV.K-13.) However, there is no discussion of the feasibility of these components.

In particular, the DEIR relies on attracting onsite "employment-generating" uses, including 698,000 square feet of commercial and 1.2 million square feet of business park uses. (*Ibid.*) However, the DEIR provides no basis for concluding that such uses will actually be attracted to the project site.

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Similarly, the DEIR relies on creating a balance between jobs and housing and creating mixed land uses to reduce commute traffic (*Ibid.*). Again, there is no basis for concluding that this plan is feasible.

There are no commitments from any business or commercial entities to locate at the project site. The site is not near a large airport, nor is it near any other large commercial or transit center.

In the absence of any information showing that these measures are feasible, the County would have no basis for concluding that the traffic, and consequent air quality, impacts of the project have been mitigated at all. Instead, the only available evidence is that air quality impacts will increase dramatically and without mitigation.

I. Cumulative Impacts

The DEIR does not provide adequate information about the cumulative impacts on air quality of this project, together with other projects.

1. Existing Air Pollution

An adequate analysis of cumulative impacts requires providing information about the current environment. The DEIR does not provide any information about air pollutant emissions in the affected area and consequently there is no baseline from which to compare cumulative air quality impacts in the future.

The DEIR should provide information about current total air pollutant emissions in the most relevant areas (Contra Costa County, the Livermore Valley). For example, the EIR which was prepared for the Chiron project in Emeryville provided information on total air pollutant emissions in Alameda County. (Chiron Development Plan EIR (City of Emeryville, 1995), p. III.H.21, copy attached.)

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2. Past, Present and Future Projects

The DEIR does not provide any information about impacts on air quality from other projects in the relevant area. While the DEIR has provided a list of anticipated new development in the East County subregion and surrounding areas (Table 9) and a list of newly completed, recently approved or currently pending development in the Brentwood planning area (Table 10), it has not provided any information about the impacts on air quality of those developments.

The lists show a total of 70,789 residential units and 3,219 acres of non-residential uses in the East County subregion and surrounding areas and a total of 6,427 residential units and 57,309 square feet of non-residential uses in the Brentwood area. (DEIR, Table 9, 10, p. IV.A-9, 17.) This is a total of 77,216 residential units.

Section 15130(b) requires that the DEIR shall provide:

(2) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available, and

(3) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable options for mitigating or avoiding any significant cumulative effects of a proposed project.

The DEIR does not provide any summary of the expected environmental effects of those projects on air quality, nor does it provide a reasonable analysis of the cumulative effects on air quality.

Instead, the DEIR states only that it used a transportation model to determine cumulative air quality impacts. (DEIR, p. VI-6.) However, no information has been provided about which projects which were included in that analysis, and there is no information about the quantity of impacts they cause.

Seventy-seven thousand residential units are likely to cause significant impacts on air quality. One of the purposes of a cumulative impacts analysis is to alert decision-makers to the impacts of incremental project approvals. Here, the DEIR does not provide any of the required information, and decision-makers and the public have no basis for determining the extent of the cumulative impacts on air quality of approving all of these projects.

J. Impacts on Adjacent Residents

The air quality section of the DEIR does not mention any air quality impacts on project residents living adjacent to roadways. However, the land use section does mention such an impact. (DEIR, p. IV.A-66.) The air quality section should be revised to address this impact and propose mitigation measures.

K. Emissions from Sewer System

The DEIR states that the project would require construction of sewer mains and pump stations and that the pump stations have the potential to create noticeable air emissions. (DEIR, p. IV.A-67.) The DEIR does not describe with specificity or quantify these air emissions. It should do so, and should propose mitigation measures.

XIII. NOISE

A. Cumulative Impacts to Areas 9-10, 57-59

Due to the project layout, a few of the project's subareas will be exposed to noise from multiple noise sources. Areas 9 and 10, which are slated for multi-family residences, will be exposed to noise from a natural gas compression facility, State Route 4 traffic, and on-site sandstone mining activities. (DEIR, pp. IV.L-8, 11, 20, 27, IV.H-5.) Areas 57, 58 and 59, for which an elementary school and single-family residences are proposed, will be subjected to noise from the Kellogg Creek sand quarry, the Sand Hill Ranch motorcross park, and the East Contra Costa County Airport. (DEIR, pp. IV.L-12, 30, 33, 34.)

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However, instead of imposing actual mitigation for noise impacts (e.g., altering project layout so adequate buffers are placed between noise sources and noise-sensitive land uses), the EIR suggests intangible things such as notifying homeowners of these impacts. (E.g., DEIR, pp. IV.H-5, IV.L-26.) The County should consider prohibiting noise-sensitive land uses in the cumulatively impacted areas, a mitigation that would be consistent with the General Plan policies of Contra Costa County and the City of Brentwood policies. (County General Plan: 1995-2010, Noise Implementation Measure 11-c; Brentwood General Plan, Policy 2.1.)

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B. Inadequate Analysis of Impacts and Deferral of Mitigation for Motorcross Park Noise

The Sand Hill Ranch Motorcross Park is located southeast of the project site. The DEIR states that "noise of the motorcycle activity would be audible in the southeastern corner of the Cowell Ranch property." (DEIR, p. IV.L-12.) However, assessment of this facility's noise impacts and formulation of mitigation measures are deferred until the development approval stage. (DEIR, p. IV.L-34.)

Although it is never appropriate to defer impact assessment and mitigation, deferral is particularly egregious in this case. Sensitive land uses (single-family homes, elementary school) are planned for this portion of the site. The motorcross park has a land use permit to operate until 11:00 p.m. on Fridays and weekends. (DEIR, p. IV.L-12.) The facility already generates complaints from existing residents, and is anticipated to disturb Cowell Ranch residents. (DEIR, pp. IV.L-34; Memorandum from Aruna Bhat, Contra Costa County Community Development Dept., to Jim Cutler (Sept. 13, 1996).)²²

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As Dr. Weissman concluded, noise from the motorcross park could require a setback buffer large enough to preclude development in a majority of areas 58 and 59. (Weissman, p. 22.) These potentially significant noise impacts should be properly assessed, and specific mitigation measures should be identified. Otherwise, there is insufficient evidence to conclude that these impacts will be mitigated to insignificance.

C. Inadequate Analysis of Airport Noise Impacts

Flyovers from aircraft using the East Contra Costa County Airport represent another significant noise source impacting various sensitive uses at the project site. The DEIR's analysis of this noise impact is based on outdated information and should

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²² The Bhat memorandum also recognizes the potential for traffic and light/glare impacts from the motorcross park.

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be revised to include significant new information regarding noise associated with expansion of the airport.

The DEIR's analysis of airport noise impacts is based on a study conducted in 1993. (DEIR, p. IV.L-12, fn. 1.) This study assumed 210,000 total annual aircraft operations. (Aircraft Noise Analysis: Cowell Ranch Project EIR, P&D Technologies (Dec. 22, 1993), p. 4, Table 2) However, current plans are to expand the airport to accommodate up to 250,000 annual aircraft operations. (DEIR, p. IV.L-12.) Hence, the DEIR's noise analysis underestimates year 2026 flyovers by 19 percent. While the number of flyovers may not alter the single event noise contour, project residents likely would view the noise from an additional 110 daily flyovers to be a substantial increase in noise impact. The DEIR should be revised to analyze the noise impacts associated with 250,000 annual operations.

This new information is further evidence that it simply is not a good idea to site residences and an elementary school in areas that will be exposed to 85 dB noise events an average of 685 times each day.²³ (Weissman, p. 21) As previously discussed, these residents and schoolchildren will also be exposed to several other significant noise sources. The County's own staff suggested that the school be located outside the airport's 85 dB (SEL) noise contour to mitigate this noise impact. (Memorandum from Steven Wright, Contra Costa County Engineering Services, to Dan Pulon, Transportation Planning (Sept. 6, 1996).) The DEIR should consider project redesign as a mitigation measure.

Additionally, this aspect of the project is inconsistent with applicable General Plan policies which recognize that "[p]roper site planning is the first mitigation measure that should be investigated to reduce noise impacts." (Contra Costa County General Plan: 1995-2010, Noise Implementation Measure 11-c; see also Brentwood General Plan, Policy 2.1.) Instead of following this common sense approach, the DEIR claims that acoustical studies, design measures for indoor noise reduction, and notification to residents will mitigate these impacts to insignificance. (DEIR, p. IV.L-28.) Dr. Weissman concluded that these mitigation measures would not mitigate this impact to insignificance. (Weissman, p. 21.) The County should conform to the principles in its General Plan and prohibit the applicant from locating noise-sensitive uses within the airport's 85 dB (SEL) noise contour.

²³ The DEIR's characterization of these noise events as "occasional" is a severe understatement. (DEIR, p. IV.L-28.)

XIV. PUBLIC HEALTH AND SAFETY

A. Natural Gas Compression Facility Impacts

The DEIR notes that potential for explosion and fire at the natural gas compression facility would pose a significant risk to project occupants. (DEIR, p. IV.M-11.) The DEIR states that the nearest proposed school site is only 1,400 feet from the facility, that commercial office uses are proposed immediately adjacent to the facility and that multi-family housing is proposed across the street from the facility. (Ibid.)

The DEIR does not propose any mitigation for the potential impacts on the school, stating that the 1,400 foot "separation is expected to be sufficient to prevent exposure of middle school students and staff to potential facility-related hazards." (DEIR, p. IV.M-11.)

As mitigation, the DEIR suggests requiring a buffer around the facility, and states that the size of the buffer should be "negotiated" with PG&E. (DEIR, p. IV.M-12.) The DEIR also suggests that the presence of the facility be disclosed to commercial occupants and residents within 1,000 feet. (DEIR, p. IV.M-12.) The DEIR concludes that these measures would reduce the impacts to a less-than-significant level. (Ibid.)

There is no basis for the DEIR's conclusions. There is no information in the DEIR showing the likely area of impact and consequences if there were a fire or explosion at the facility. In the absence of any information about the area of impact, it is not possible to conclude that a 1,400 feet separation between the facility and the school is adequate.

The DEIR does not contain any information about the size or type of berms that would be adequate to protect project residents and commercial occupants.

While notification of commercial occupants and project residents of the potential danger is beneficial, it certainly does not reduce the impact of a fire or explosion on those residents and occupants.

There is no discussion of the potential impact of a fire or explosion on traffic on the adjacent proposed main north-south thoroughfare. (DEIR, p. IV.M-11.)

Further, the DEIR leaves to a third party (PG&E) the ultimate determination of the size and type of buffer or berm which is to be used. CEQA requires the public agency to impose mitigation measures. They cannot be left to negotiation with a third party.

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The DEIR should provide information about the area of impact and likely consequences of an explosion and fire at the facility, and should propose mitigation measures based upon that information.

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B. Hazardous Materials and Conditions

The DEIR refers to removal of reservoir sediments and states that removal is not expected to pose a significant health risk or environmental hazard, particularly if standard dust control methods are employed during grading and excavation. (DEIR, p. IV.M-26.) The DEIR should state whether this is part of the project, or a proposed mitigation measure, or a project which is being carried out by others. The DEIR should provide information about the proposed schedule for removal of the sediments and the proposed methods and protective measures that will be employed. Apparently, this is a long-term project, because the EIR states that project residents could be exposed to mercury in the reservoir.

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The DEIR suggests providing a fence around the reservoir as a mitigation measure for exposure of project residents to mercury in the reservoir. (DEIR, p. IV.M-26.) However, the DEIR does not make clear when the fence is to be constructed or how long its use will be necessary (there is no information about the proposed schedule for cleaning up the contamination source at the Mt. Diablo Quicksilver Mine). Further, the fence is only designed to "discourage" public access. The fence should be designed to prevent public access. In the absence of more specific information about the fence, there is no basis for concluding that this mitigation measure will reduce the impact to a less-than-significant level.

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The DEIR notes that residents and employees may be exposed to herbicides and pesticides that would be used at the proposed onsite golf course, other common landscaped areas, and onsite agricultural areas, representing a potentially significant impact. (DEIR, p. IV.M-28.) However, the DEIR does not propose any mitigation measures for the use of herbicides and pesticides that would be used on the common landscaped areas or onsite agricultural areas. Instead, the DEIR only proposes mitigation for the use of herbicides and pesticides on the onsite golf course. (DEIR, p. IV.M-29.) The DEIR should propose mitigation measures for the other uses. Otherwise, there is no basis for finding that these potentially significant impacts have been mitigated to a less-than-significant level.

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The DEIR states that accidental spillage or leakage of hazardous materials stored in onsite commercial, golf course, and open spaces areas represents a potentially significant impact. (DEIR, p. IV.M-29.) The DEIR explains that governmental agencies regulate the storage, use and disposal of hazardous materials and

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that exposure "therefore, would be associated with accidental spills that cannot be contained, or illegal/unauthorized releases." (*Ibid.*) The DEIR proposes no effective mitigation measures for this impact. Instead, the DEIR relies on two ineffective proposals. First, it relies on governmental regulation, but it has already admitted that governmental regulation does not address these risks. Second, the DEIR proposes that minimum buffering should be required around any proposed commercial use involving the storage or handling of large quantities of hazardous waste. (DEIR, p. IV.M-30.) However, the DEIR does not propose any effective method for ensuring that the "minimum buffering" is required, such as including it in the rezoning of the property. The DEIR must either propose effective mitigation or acknowledge that the impact remains significant.

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The DEIR refers to hazards associated with a sandstone mine. (DEIR, p. IV.M-30, 31.) The referenced sandstone mine is a silica sand quarry. The DEIR does not address the public health and safety impact of its proposed mitigation measure PHS-8(c), which is to mine the sand prior to urban development. (DEIR, p. IV.M-31.) Silica is a known carcinogen. (22 Cal.Code Regs. § 12000(b).) Silica dust poses a potential public health and safety impact. The DEIR must discuss the impact of this proposed measure.

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XV. ALTERNATIVES

The discussion of alternatives in the DEIR is inadequate because it does not include a reasonable range of alternatives. In particular, it fails to include an alternative that would avoid or substantially reduce significant project impacts while at the same time achieving the basic objectives of the project.

Under CEQA, an EIR must consider "a range of reasonable alternatives to the proposed project, or to the location of the proposed project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Guidelines 15126(d); *Kings County, supra*, 221 Cal.App.3d 692, 733 [270 Cal.Rptr. 650, 670].) One of the major functions of an EIR "is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 566 [276 Cal.Rptr. 410, 417].) The range of alternatives considered in an EIR must "represent enough of a variation to allow informed decision making." (*Mann v. Community Redevelopment Agency of the City of Hawthorne* (1991) 233 Cal.App.3d 1143, 1151 [285 Cal.Rptr. 9, 13], citing *Laurel Heights I, supra*, 47 Cal.3d at 406 [253 Cal.Rptr. 426].)

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As discussed in detail in these comments, the Cowell Ranch project would result in many significant environmental effects that will not be reduced or avoided by the inadequate mitigation measures proposed in the DEIR. The DEIR considers six alternatives to the proposed project, yet none of these would avoid or substantially lessen many significant project impacts while attaining the basic objectives of the project. The range of alternatives considered in the DEIR is therefore inadequate.

The only alternatives considered that would substantially reduce most of the project impacts are the No Project Alternative and the No General Plan Amendment Alternative (which would allow the development of sixteen residential units on the site), yet neither of these would satisfy the project objective of creating a largely self-contained community. (See DEIR p. V-1.) While the Mitigated Alternative would reduce to some extent some project impacts, it fails to fully address most of the significant effects of the project. (See DEIR pp. V-14 - V-16.) For example, the Mitigated Alternative would still involve the loss of 379 acres of prime agricultural land (DEIR p. IV.B-18) and several acres of jurisdictional waters.²⁴

To satisfy CEQA requirements, the DEIR should analyze an alternative that more fully mitigates the project's significant environmental effects that are identified in these comments. The document should consider an alternative that avoids development on prime soils, known prehistoric and historic cultural sites, steep slopes (those with a grade of 26% or greater), and sensitive ecosystems, such as wetlands and other jurisdictional waters, blue oak woodlands, and populations of San Joaquin spearscale and big tarplant. The layout of the development should be altered to leave an east-west wildlife migration corridor. It should also be configured to place adequate buffers between noise sources and noise-sensitive land uses. The size of the development should be reduced significantly to minimize the loss of open space, decrease air pollution, traffic, and waste generated by the project, reduce the consumption of water and energy, and prevent local population growth from exceeding official projections. Finally, the alternative should provide for adequate moderate and low-income housing.

While such an alternative would provide for fewer residential units than the 4,496-5,226 units allowed for in the Mitigated Alternative, it may still be possible to achieve the project objective of creating a largely self-contained community.

²⁴ The exact amount of jurisdictional waters that would be filled under the Mitigated Alternative is unclear, because the DEIR does not disclose the number of acres of jurisdictional waters that occur in the planning areas that would be altered under this alternative.

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Moreover, "[e]nvironmentally superior alternatives must be examined whether or not they would impede to some degree the attainment of project objectives." (Kings County, supra, 221 Cal.App.3d at 737 [270 Cal.Rptr. at 673].)

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Because it does not consider an alternative that substantially reduces project impacts while attaining basic project objectives, the discussion of alternatives in the DEIR is deficient.

XVI. CUMULATIVE IMPACTS

The proposed Cowell Ranch project is one of several enormous residential projects proposed for Brentwood, the East County subregion and surrounding areas. Others include Mountain House with 16,105 homes; Dougherty Valley with 11,000 homes; East Dublin Specific Plan with 13,930 homes and North Livermore General Plan with 12,385 homes. (DEIR, Table 9, p. IV.A-9.) Altogether there are more than 77,000 new homes planned for the area. (DEIR, Tables 9 and 10, p. IV.A-9, 17.) Yet, the DEIR does not analyze the cumulative impacts of these projects adequately.

There is no summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available, and there is no reasonable analysis of the cumulative impacts of the relevant projects or reasonable options for mitigating or avoiding any significant cumulative effects of these projects. These omissions violate the requirements of section 15130(b)(2) and (3) of the CEQA Guidelines.

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A. Failure to Provide Information About Cumulative Impacts

Instead of providing the required information, the DEIR simply provides information about future environmental impacts with and without the Cowell Ranch project, often failing to quantify the cumulative impacts.

1. Land Use

For example, the DEIR finds that there will be a cumulative loss of open space in the County (DEIR, p. IV.A-32), but does not quantify that loss, so that the public and the decision-makers have no information about the actual consequences of approving all of the proposed development. Similarly, the DEIR finds that approval of the project will cause a substantial population increase exceeding regional projections. (DEIR, p. IV.A-34). The DEIR does not provide information on the population increase due to each of the projects listed in Tables 9 and 10. The decision-makers and the public cannot determine the impact of

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approving all of these projects, together with the Cowell Ranch project.

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The DEIR states that the project could have a significant impact on the County's obligation to provide housing for a range of household income levels (DEIR, p. IV.A-35), but does not provide any information about whether the housing proposed by the projects listed in Table 9 and 10 will also cause a significant negative impact on the availability of affordable housing. The DEIR discusses the project's impacts on Brentwood (DEIR, p. IV.A-39-42), but not the impacts on Brentwood of other proposed projects. The same is true of impacts on rural residential uses (DEIR, p. IV.A-44.)

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There is no discussion of the cumulative impacts on the regional jobs/housing balance. Such a discussion is crucial, because the DEIR relies on its calculation of the project's jobs/housing balance when it analyzes traffic and air quality impacts. However, if there is already a high vacancy rate for commercial space in the East County, then the cumulative impacts of the Cowell Ranch project may only exacerbate the vacancy rate and cause a greater jobs/housing imbalance.

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2. Agriculture

The DEIR does not provide any information about the cumulative loss of agricultural land due to the projects listed in Table 9 and 10. The DEIR states that the loss of prime soils at the Cowell Ranch project will contribute to the continuing cumulative loss of prime soils in the County. (DEIR, p. IV.B-21.) However, there is no information on the amount of land that will be lost to agriculture or the amount of prime soils that will be lost in Contra Costa County or in the region.

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3. Transportation

The DEIR provides information on traffic impacts with and without the project for various years. However, the DEIR does not provide any information as to how much traffic is due to the projects listed on Table 9 and 10. The decision-makers and the public need to know what impacts will be caused if all or some of these projects are approved.

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Moreover, as Daniel Smith, Jr., P.E., discusses in the attached letter, the funding of mitigation measures relied on in the DEIR is dependent on these future developments. The relationship between this project and other projects must be clarified to properly assess all cumulative transportation impacts and whether adequate resources (i.e., other "fair

shares") will be available to mitigate these cumulative impacts.²⁵

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4. Public Facilities and Services

As discussed in the comments on public facilities and services, the DEIR does not address the cumulative environmental impacts resulting from the increased demand for water in the region that will be created by the Cowell Ranch project in combination with other recent, ongoing, and proposed development projects in Contra Costa County. In addition, the document does not provide an adequate analysis of the cumulative impacts of these development projects on landfill capacity.

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5. Biological Resources

The conclusion in the DEIR that cumulative impacts to biological resources will be insignificant is based on unsupported assumptions and inadequate information. As discussed in the section on biological resources, the DEIR assumes without basis that vague and inadequate mitigation measures will reduce the impacts of the project itself on wildlife and their habitat to an insignificant level. The DEIR compounds this error by making the conclusory assertion that other development in the region will not have significant impacts on biological resources.

That other lands slated for development in the Brentwood area historically have been used for agriculture does not preclude the possibility that development on those lands will significantly affect biotic values. Cowell Ranch itself has been used for grazing and other agricultural purposes, but still remains important habitat for special status species, such as the endangered San Joaquin kit fox. Moreover, undeveloped land in the region may be used as wildlife migration corridors, even if it does not support resident wildlife. The DEIR states, "A map survey of these cumulative projects indicates that few sensitive habitats, such as wetlands or creek corridors, will be displaced." (DEIR p. IV.G-59.) However, the document provides no details regarding this survey to allow decision-makers and the public to evaluate the impacts of the project.

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The DEIR also asserts that the County's urban limit line regulations will protect biologically sensitive land in the project vicinity. It is ironic that the document places such faith in ability of these regulations to safeguard biotic resources when the Cowell Ranch project itself would require an alteration of the urban limit line. The fact that such an

²⁵ See also Sept. 5, 1996 comment from Daniel J. Pulon, AICP, County Transportation Planning Division ("The [ADEIR] traffic analysis lacks a cumulative impacts section.").

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alteration is being sought indicates either that the existing urban limit line does not encompass the site's most valuable biotic resources, or that a change in the urban limit line will expose valuable biotic resources to development. Either way, reliance on the County's urban limit line to prevent cumulative impacts to biological resources does not appear to be justified. The DEIR admits as much when it acknowledges that allowing development of this project may lead to other requests for development of land outside of the urban limit line (DEIR, p. N.B-2b).

Finally, the DEIR contains no discussion of the cumulative impacts on biological resources of the project in combination with the proposed SR-4 bypass.

6. Mineral Resources

The DEIR does not discuss the impacts on public health of mining crystalline silica from the mine on the project site. Nor does it discuss the impacts of such mining from the other two mines in the area. The decision-makers need to know the cumulative impacts of such mining before they can decide whether to approve quarrying as a mitigation measure.

7. Cultural Resources

As discussed in Section XI, the project cite contains several prehistoric and historic cultural resources. It is unclear whether these sites will be disturbed, because the proposed mitigation is avoidance, if feasible. According to the EIR for the State Route 4 Bypass Project, very little is known about the native inhabitants of this area. The DEIR should discuss whether other past, present, or reasonably foreseeable future development has or will affect related cultural resources and what the cumulative effects on these resources will be.

8. Air Quality

As discussed in the comments on air quality, the DEIR does not quantify the emissions from the projects listed on Table 9 and 10, or from projects in the Livermore Valley.

9. Noise

As previously discussed in section XIII, A, several project areas will be subjected to noise impacts from several significant noise sources. Although these areas contain sensitive uses (e.g., school, residences), the DEIR fails to discuss these significant cumulative impacts.

The DEIR must provide information about both the current environmental and the expected cumulative impacts of these

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projects, and must propose mitigation measures. There is no other way to determine the effect of all of these projects on the environment. Yet, the DEIR consistently fails to provide the required information.

Further, the DEIR's failure to provide an adequate discussion of cumulative impacts will preclude the future use of a focused EIR. (§ 21158.)

The importance of the analysis of cumulative impacts has been discussed in several cases and treatises. (*Kings County, supra*, 221 Cal.App.3d 692, 662-663.) "One of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources. These sources appear significant, assuming threatening dimensions only when considered in light of the other sources with which they interact." (*Id.* at 662.) The DEIR must provide information about the cumulative impacts of this project.

XVII. CONCLUSION

As discussed above, the DEIR did not adequately analyze all of the project's potential significant impacts, and did not provide an adequate discussion of mitigation measures. These deficiencies must be corrected for the DEIR to comply with CEQA. The DEIR must be revised to comply with CEQA and must be recirculated for public review and comment.

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SMITH ENGINEERING & MANAGEMENT



January 29, 1997

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**Subject: Draft Environmental Impact Report: Cowell Ranch Project General Plan
Amendment And Related Actions.** p96002x0

Dear Ms. Broadwell and Ms. Reynolds:

Per your request I have reviewed the DEIR on the Cowell Ranch project in Contra Costa County, focusing on traffic and transportation aspects. As part of my review I also considered the *State Route 4 Bypass Project EIR*, the *1995 Contra Costa Congestion Management Program Update*, the *East County Action Plan*, the *Commercial And Employment Market Analysis for Cowell Ranch*, the *Contra Costa County General Plan, Transportation and Circulation Element* (adopted July, 1996) and miscellaneous correspondence relating to the Cowell Ranch Project. Following are my comments on the Cowell Ranch document.

1. Proposed Traffic Mitigations Are Not Fully Funded. The DEIR discloses a number of significant off-site project traffic impacts and cumulative traffic impacts on streets and highways. It concludes that the majority of these would be mitigated to less than significant effect through construction of various traffic improvement measures by others. Responsibility for construction of the claimed mitigation measures rests with several public jurisdictions, not the project sponsors. While nearly all the mitigation measures are consistent with adopted plans or ongoing planning, many of the mitigation measures being relied upon are not committed and **fully funded** by the responsible implementing jurisdictions, developer fees or by earmarked external funds. The Project's only link to the mitigation is a commitment to provide proportional "fair share funding". Actual completion of the mitigations is contingent upon other developments being carried out to completion and contributing their expected share of developer fees, new local sources of funding being developed, and securing presently unknown external funds. In fact, the *Contra Costa General Plan* states that the financial constraints on the transportation network development will have the effect of slowing growth in the County (p. 5-13). This makes it a likely prospect that the amount of developer fees collected will be less than the anticipated total needed to fund the proposed mitigation measures. As long as funding for the mitigation measures remains incomplete and as vaguely defined as at present, the claimed mitigation is illusory and the project must be said to have significant unmitigated traffic impacts. The document should be revised to inform the reader of these contingencies and the possibility that the proposed mitigation may never be implemented.

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A key example of this concern is the mitigations claimed for the State Route 4 Bypass at its intersections with Sand Creek Road, Balfour Road, Marsh Creek Road, Lone Tree Way and Laurel Road for Year 2010 and its intersections with Sand Creek Road, Balfour Road and Marsh Creek Road for Year 2026. None of the mitigations relied upon is clearly funded. According to the DEIR, the State Route 4 Bypass would carry a total of 9,078 two-way AM and PM peak hour project and non-project trips in Year 2010 and 12,406 in Year 2026.¹ If the extensive mitigations relied upon for the intersections listed above are not implemented due to failure to secure currently unprogrammed funding, the DEIR's analysis shows that each of the above intersections would be completely disfunctional - not merely congested - in the peak periods. In such circumstances, the overspill of traffic from these areas to other routes would cause additional significant adverse impacts not analyzed in the DEIR. This highlights why it is crucial that there be a clear funding plan for the proposed mitigation. Otherwise, there is no basis to conclude that the project's significant traffic impacts will be mitigated to "less than significant".

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2. Assumption Of Future Base Transportation Network Understates Potential Impacts. The DEIR makes several questionable assumptions about the base transportation network that will exist in Years 2010 and 2026. These assumptions include several major transportation improvement projects that have not been committed to by all necessary involved jurisdictions and for which funding has not been assured. Obtaining necessary funding for the projects assumed completed is contingent upon realizing development fees from full expected build-out of other anticipated developments, and unidentified and uncommitted local, State and Federal funds. The extent of the funding uncertainty is underscored in the *East County Action Plan*, adopted December 8, 1994, which indicates that even after realizing full anticipated development fee revenue, as yet unidentified local, state and federal funds would still be needed to fund half the cost of planned improvements.² If the unfunded transportation improvement projects were not included in the base networks, the Project's transportation impacts would be far more significant and probably unmitigable. In presuming that these uncertain major facility improvements are in place in before the subject project is built, the DEIR makes an assumption that may grossly underestimate the project's impacts. Moreover, this method of analysis is inconsistent with the "worst case" assumptions normal to a CEQA analysis.

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It appears that projects included in the base network may actually be dependent on development fees from the Cowell Ranch Project itself. In commenting about improvements included in the base network, the DEIR itself states that "*Funding for some of the transportation improvements is dependent upon development that is anticipated to occur by 2010*" (DEIR IV.C-32). This is an assumption of **underlying premitigation** of the project's traffic impacts and aggregate development, an assumption that makes the DEIR deficient because it unreasonably minimizes and fails to fully disclose the true extent of traffic impacts of this project. The entire analysis should be revised to include in the base network only those traffic and transportation improvement projects that are clearly committed and fully

¹ Total two way AM and PM peak hour volumes reported on Figures 36 and south of Laurel Road ("4 Bypass" volumes nearest Project site reported on those figures).

² See *East County Action Plan*, p. F-11, (Dec. 8, 1994).

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funded. We believe the outcome of such a re-analysis would be so significantly changed from the current DEIR as to require the entire draft document to be recirculated.

The State Route 4 Bypass project, previously cited in section 1, is an example of a project that is not fully committed and funded, yet is assumed to be completed by the DEIR 2010. The DEIR discloses that this facility would serve a combined total of 9078 AM and PM peak hour trips (Figure 36, south of Laurel Road). If the State Route 4 Bypass were not completed by Year 2010 because of failure to obtain the necessary construction funds that are as yet unearmarked, unleashing that number of peak hour trips on the remainder of the base network would result in base conditions and project impacts vastly different and substantially more severe than reported in the DEIR.

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3. Proposed Intersection Improvement Mitigations Probably Not Practical Or Functional; Interchanges Probably Needed. Among the intersection mitigations along the State Route 4 Bypass that the DEIR identifies, those at Lone Tree Way and at Laurel Road for Year 2010 and Balfour Road for Year 2026 involve extensive lane additions to already extensively developed intersections. The end result is overdeveloped and complex intersections with multiple through and turning lanes. Such complex overdeveloped intersections, though they appear to function satisfactorily in theoretical capacity/level of service calculations, are far less functional in actual operations. Such complex intersections require awkward, operationally problematic and sometimes physically impractical transitions between the approach and departure lanes of the intersection and the lane configuration of the continuing roadway sections, and often require geometrics impractical on the intersection site. In short, the proposed mitigations of the surface intersections would probably not be satisfactory and improvement to create grade separated interchanges at these locations is likely needed.

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While the DEIR does note that interchanges at these locations are a possible option to the intersection improvements (Tables 32,33), the primary impression conveyed is that surface intersection improvements at these locations will be adequate. This is contrary to the *Contra Costa General Plan Transportation And Circulation Element*. The General Plan indicates that State Route 4 Bypass should be developed to freeway status from Balfour north by 2005, implying full interchanges at these locations (p 5-19). The Cowell Ranch EIR document should be revised to state that construction of interchanges will be necessary at these locations. Because interchanges are likely to increase costs by twenty-fold or more over the surface intersection improvements cited in the DEIR, the need to construct interchanges at these locations heightens the concerns raised in section 1 about the reasonableness of considering the project's impacts adequately mitigated, given the uncertainty of funding commitments to construct the necessary mitigations. It simply may not be economically feasible to mitigate these significant impacts.

4. The DEIR understates the project's traffic impacts by assuming an unrealistically high percentage of tripmaking would remain internal to the project area. The DEIR assumes that an exceptionally high percentage of the vehicle trips caused by the project would have both their origin and destination within the Cowell Ranch project area: 23.3 and 27.7 percent in the AM and PM peaks respectively for Year 2010; 28.8 and 34.5 percent in the AM and PM peaks respectively for Year 2026 (percentages reported or derived per DEIR IV.C-44 to 47). These rates are characteristic of 1990 census journey to work data for Brentwood where a large share of the population worked on the

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same agricultural property they resided on or in local agricultural employment. Nearby residential subdivisions more characteristic of the Cowell Ranch project had an immediately local work commutation rate of less than 10 percent. This was pointed out by County Community Development staff in comment on the Administrative Draft of this EIR, (see letter to John Wagstaff by Linda Moulton dated 4-20-94).

Ms. Moulton's comments raise several valid issues.

A. The reasonableness of the underlying assumptions regarding commute patterns goes to the heart of the adequacy and reasonableness of the entire transportation impact analysis based thereupon. For that reason alone the comments of Ms. Moulton, which were supported by data and cogent interpretation, should have been analyzed and responded to in depth. Furthermore, this material should be presented in a manner readily subject to public review. In its present form, the DEIR makes it difficult for the public and public policymakers to understand and comment on the details of its assumptions about place-of-work and place-of-residence that underlie its assumed internal trip percentages. This crucial information should be included in the DEIR where it would be readily open to review by the public and public policymakers. Failure to present this crucial information makes the DEIR deficient as an information document.

B. The actual memo in Community Development Department files referenced in the DEIR as documenting assumptions about place-of-work and place-of-residence (memo from Sally Nielsen, Recht Hausrath & Associates to Deborah Holley dated 3-14-94) includes in its second paragraph cautionary language characterizing the assumed scenario as "*one possible outcome*" (presumably among several). If there are a number of plausible scenarios, adopting for the sole basis of this EIR analysis one that presumes internal tripmaking so favorable toward minimizing the external traffic impacts of Cowell Ranch is contrary to the "worst case" philosophy normal to CEQA analysis. On that basis the DEIR is inadequate and should be redone including transportation analysis reflecting more pessimistic internal tripmaking assumptions.

C. The referenced memo by Ms. Nielsen notes that the employment growth rates assumed in Cowell Ranch that underlie the DEIR's projection of commute patterns had to be accommodated within overall projections of regional employment growth. In fact, the extent of accommodation necessary was a reduction *by fifty percent* of the previously presumed employment growth for the Lamorinda area and a reduction of *thirty percent* in the growth otherwise projected for the Dublin/Pleasanton area. An employment projection that necessitates these radical shifts in employment growth previously projected for other established areas strains the project's credibility and consequently strains the credibility of the traffic forecasts that are based thereupon. If, as noted in the preceeding point, this is only one of many possible development scenarios, surely a more plausible scenario should have been chosen as the basis for such a crucial element as the traffic commute analysis.

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D. Alerted to the possibility that the commute pattern assumed in the DEIR might be flawed, the preparers apparently summarily concluded, according to background documentation (memo from Deborah Holley to Jim Cutler dated 3-14-94) that Ms. Moulton's data and explanation of Brentwood commute patterns was wrong because it differed from the assumptions used in the traffic forecast model. The more logical conclusion is that portions of the model itself may be based on flawed underlying assumptions. These aspects of the model should be rectified and the DEIR's transportation analysis redone accordingly.

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E. As previously noted, the question of the adequacy of the place of work/place of residence and internal tripmaking assumptions go to the heart of the adequacy of the DEIR transportation analysis. If the internal trip rate were 10 to 15 percent as suggested by the Moulton data rather than the roughly 25 to 35 percent assumed in the DEIR analysis, then the external traffic impacts of Cowell Ranch development could be up to 20 to 30 percent greater than disclosed in the DEIR. Given the scale of this potential difference, the DEIR should be redone including a scenario that includes complete transportation analysis based on a less optimistic internal trip rate assumption.

5. The DEIR is deficient in understating project traffic impacts by assuming that an exceptionally large percentage of the trips would be of relatively short distances and remain local within "East County". For example, for the AM peak period, the DEIR assumes that 87.4 percent of the project's Year 2010 trips would be completed within the "East County" area. By contrast, the *East County Action Plan* that uses the same traffic forecast model, predicts that in Year 2010 only 63.8 percent of trips generated within East County would be completed within East County. The effect of an analysis that overstates the number of "short" trips and understates the number of "long" trips is to understate the project's traffic impacts on the crucial traffic gateways between East County and the surrounding regions. Using percentages consistent with the *East County Action Plan* indicates that project traffic on the "gateways" is understated by 24 percent. If the trip length data in the *East County Action Plan* is correct, the project's impacts on these gateways would be significantly greater than estimated in the DEIR.

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Reinforcing evidence that the DEIR overstates short trips and understates project traffic and its impacts on the East County gateway corridors are the counter-intuitive results of the traffic forecasts presented in the DEIR. The DEIR asks the reader to accept the wholly unrealistic projection that a project forecast to generate 3070 AM peak trips and 3882 PM peak trips in Year 2010 would add only 4 AM and 82 PM peak trips on Vasco Road (south of Diablo Road); *reduce* trips on Byron Highway south of Diablo Road by 72 and 160 in the AM and PM peaks respectively; add only 6 and 51 AM and PM peak trips respectively to Highway 4 east of Byron, and add only 20 westbound AM peak trips to Highway 4 west of A Street in Antioch (see DEIR, Figure 36). Similarly, the 2026 analysis includes the counterintuitive projection that the project would *reduce* westbound AM peak hour trips on the State Route 4 Bypass south of Laurel Road by 357.

There are other examples of project traffic assignments that strain credibility. These include a projection on Figure 36 of fewer project trips on the portion of Vasco Road near Camino Diablo (near

the project site) than on the portion of Vasco near I-580 (distant from the project site). It is not logical that the project could cause more traffic on the distant portion of the road than on the portion of that same road closest to the project.

Another example where the traffic assignments strain credibility involves a comparison of how much project traffic is predicted to have a terminus within the Vasco Road corridor versus how much is predicted to travel to the vast portion of the region west of the immediate Brentwood-Oakley area via the State Route 4 corridor. The DEIR's traffic forecast predicts that over 400 PM peak hour project trips will have origin or destination somewhere along Vasco between Camino Diablo and I-580. However, it predicts that only 225 PM peak project trips would have origin or destination in the State Route 4 corridor west of Hillcrest. That is to say, the forecast is predicting that the number of project trips going to or from an area that is currently undeveloped and where development is being discouraged would be double the number of trips estimated between the project and the vast majority of established development in the entire Bay Area. Such a prediction is not logical.

While the preceeding example indicates that the DEIR's traffic forecast projects far too much traffic to have origin or destination locally within the Vasco Road corridor, the traffic assignments on Figures 36 and 37 show far too little traffic traveling through the Vasco corridor between the project and I-580. The projections show only 10 apparent A.M. peak through trips and 71 peak through trips in 2010; only 64 apparent A.M. peak through trips and 95 P.M. peak through trips in 2026. This hardly seems credible for a project of this scale when at present the sparsely developed Brentwood general area generates between 1200 and 1300 through trips on Vasco in the each of the A.M. and P.M. peaks. Perhaps the preparers' decision to reduce projected employment growth in Dublin/San Ramon, a decision that the Nielsen memo itself describes as "mechanical", accounts for this unrealistic traffic projection. The letter of comment on the ADEIR by Alameda County Planning Director Adolph Martinelli (11-27-96) echoes this point and the preceeding discussion in section 4.

Based on the comments in this section and section 4, above, the DEIR's transportation analysis is inadequate and should be revised to incorporate more reasonable tripmaking assumptions. If the project's forecasts had included more reasonable tripmaking assumptions regarding out-of-area commuting, the project's impacts on more distant intersections summarized on Tables 30 and 31 might indicate more significant impacts.

6. The DEIR Fails To Analyze The Impacts Of a Major Proposed Arterial Roadway. One of the project mitigations proposed in the DEIR is construction of a new east-west arterial roadway that crosses the Highway 4 Bypass alignment midway between Balfour Road and Marsh Creek Road. It seems likely that this is a reopening and widening of Briones Valley Road although this is not disclosed in the DEIR. The DEIR fails to provide any details about this major roadway, such as where it would be located, what streets it would connect to east of the Highway 4 Bypass, what traffic it would carry, what streets, intersections, residences, schools or other sensitive receptors would be impacted by that traffic. In fact, the proposed new arterial could be more adversely impactful than the significant adverse traffic impacts it is intended to mitigate, particularly in non-traffic impact areas if it traverses sensitive habitats or sensitive land uses. The DEIR is deficient in proffering as

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mitigation a vaguely defined new arterial roadway without any reasonable study of the potential environmental impacts and consequences of that proposal.

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7. Impacts Of Closing Concord Avenue Are Not Analyzed. A situation similar to Item 6 above exists relative to the proposal to close Concord Avenue as a project mitigation. The DEIR fails to analyze where Concord Avenue traffic will go, who and what traffic diverted by the closure will impact or who and what will be adversely impacted by the proposed severance of access. The DEIR fails to disclose these matters and is deficient as a result.

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It might also be appropriate to regard the Concord Avenue closure and the "new arterial" referenced in Item 6 above as fundamental components of the Cowell Ranch project rather than mitigations. These actions should be analyzed in a manner similar to other project roadway features such as the proposed closure of Marsh Creek Road. The DEIR should address the impact these street proposals have on the environment they traverse and on the contiguous street infrastructure they connect with or that carries traffic diverted from them.

8. The DEIR Mitigation For Non-compliance With County And Brentwood Street Standards Is Inadequate. The DEIR identifies as a significant impact the project's proposal to not comply with various street standards of the City of Brentwood and Contra Costa County. In specific, the right-of-way for local urban streets does not meet the City of Brentwood standard; the proposed design for local non-urban streets does not meet either City or County standards; the design for non-urban collectors does not meet the City of Brentwood standard; the design for arterial streets does not meet County lane width standards and some cross-sections do not meet City standards. Some of the nonconformance may be inconsequential from functional and safety considerations. However, the non-conformance involved in all but the widest arterial section, the non-urban collector and the non-urban local all appear to involve potentially significant functional and safety compromises. The DEIR concludes the impact of these non-compliances would be mitigated to less than significant. However, the proposed mitigation - to resubmit the matter to County technical staff for consideration subsequent to this EIR - appears nothing more than a facile statement of the *applicant's intent not to comply with the standards*. Further County staff review provides no assurance of adequate mitigation - particularly with respect to violations of City of Brentwood standards. It is insufficient for the DEIR to conclude that a reconsideration of the applicants street design proposals by County staff mitigates the impact of noncompliance from significant to less than significant.

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9. The DEIR is deficient because it fails to disclose actual project generated transit patronage demand and concludes that the impact of that demand can be mitigated to "less than significant". At the mode choice rate of the East County Model used by the DEIR preparers (see East County Action Plan, Appendix A, page 12), it can be estimated that the project alone would generate enough AM peak transit demand to exhaust the entire AM transit capacity currently provided in the general area. There is no evidence of plans or financial resources to expand local transit service to accommodate the level of demand estimated for the project or to extend specific service into the project area. Under these circumstances, it is misleading and inappropriate for the DEIR to characterize the project impact on transit service as "less than significant", qualified by the fine print caveat that this is true only if transit providers can extend service to the project. The appropriate

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Lizanne Reynolds
January 29, 1997
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disclosure would be for the DEIR to characterize the impact as "significant unavoidable" perhaps with the notation that the impact could be reduced to less than significant if transit service providers find presently unidentified resources to enable them to extend significant new service to the project.

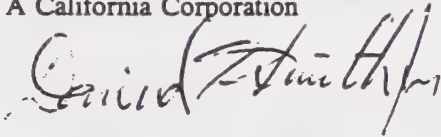
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The preceeding points demonstrate several significant flaws in the transportation section of the EIR including failure to disclose significant impacts, failure to disclose the true extent of significant impacts and failure to mitigate significant impacts. We believe that the flaws are so serious that correction of them may necessitate significant revisions to the DEIR and recirculation of the report as a draft document for public review. This concludes my initial comments on the transportation section of the DSEIR. I will be pleased to discuss them at your convenience.

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Sincerely,

SMITH Engineering & Management
A California Corporation



Daniel T. Smith, Jr. P.E.
President



SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr. Principal

EDUCATION

Bachelor of Science, Engineering and Applied Science, Yale University, 1967

Master of Science, Transportation Planning, University of California, Berkeley, 1968

PROFESSIONAL REGISTRATION

California No. 21913 (Civil)

Nevada No. 7969 (Civil) Washington No. 29337 (Civil)

California No. 938 (Traffic)

Arizona No. 22131 (Traffic)

PROFESSIONAL EXPERIENCE

Smith Engineering & Management, 1993 to present. President.

DKS Associates, 1979 to 1993. Founder, Vice President, Principal Transportation Engineer.

De Leuw, Cather & Company, 1968 to 1979. Senior Transportation Planner.

Personal specialties and project experience include:

Urban Corridor Studies/Alternatives Analysis. Principal-in-charge for State Route (SR) 102 Feasibility Study, a 35-mile freeway alignment study north of Sacramento. Consultant on I-280 Interstate Transfer Concept Program, San Francisco, an AA/EIS for completion of I-280, demolition of Embarcadero freeway, substitute light rail and commuter rail projects and TSM strategies. Principal-in-charge, SR 238 corridor freeway/expressway design/environmental study, Hayward (Calif.) Project manager, Sacramento Northeast Area multi-modal transportation corridor study. Transportation planner for I-80N West Terminal Study, and Harbor Drive Traffic Study, Portland, Oregon. Project manager for design of surface segment of Woodward Corridor LRT, Detroit, Michigan. Directed staff on I-80 National Strategic Corridor Study (Sacramento-San Francisco), US 101-Sonoma freeway operations study, SR 92 freeway operations study, I-880 freeway operations study, SR 152 alignment studies, Sacramento RTD light rail systems study, Tasman Corridor LRT AA/EIS, Fremont-Warm Springs BART extension plan/EIR, SRs 70/99 freeway alternatives study, and Richmond Parkway (SR 93) design study.

Area Transportation Plans. Principal-in charge for City of Los Angeles General Plan Framework transportation element. Project manager for the transportation element of 300-acre Mission Bay development in downtown San Francisco. Mission Bay involves 7 million gsf office/commercial space, 8,500 dwelling units, and community facilities. Transportation features include relocation of commuter rail station; extension of MUNI-Metro LRT; a multi-modal terminal for LRT, commuter rail and local bus; removal of a quarter mile elevated freeway; replacement by new ramps and a boulevard; an internal roadway network overcoming constraints imposed by an internal tidal basin; freeway structures and rail facilities; and concept plans for 20,000 structured parking spaces. Principal-in-charge for circulation plan to accommodate 9 million gsf of office/commercial growth in downtown Bellevue (Wash.). Principal-in-charge for 64 acre, 2 million gsf multi-use complex for FMC adjacent to San Jose International Airport. Project manager for transportation element of Sacramento Capitol Area Plan for the state governmental complex, and for Downtown Sacramento Redevelopment Plan. Project manager for Napa (Calif.) General Plan Circulation Element and Downtown Riverfront Redevelopment Plan, on parking program for downtown Walnut Creek, on downtown transportation plan for San Mateo and redevelopment plan for downtown Mountain View (Calif.), for traffic circulation and safety plans for California cities of Davis, Pleasant Hill and Hayward, and for Salem, Oregon. Projects involved traffic and parking surveys, travel forecasts, modal split evaluation, regional and local transportation network assessment, freeway corridor location, traffic operations evaluations and circulation plan improvements.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Transportation Centers. Project manager for Daly City Intermodal Study which developed a \$7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station (including successful negotiation for grant to fund improvements) plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco and for integration of BART station at Tanforan Park shopping center. Developed transit service plan for City of Santa Clarita featuring relocation of system's primary timed-transfer hub terminal.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Neighborhood Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, which pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana, Menlo Park, Santa Monica and others. Participated in development of photo/radar speed enforcement device. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Parking. Prepared parking programs and facilities for large area plans and individual sites; also, resident preferential parking programs.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning. Project manager on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

Litigation Consulting. Consultation, investigations and expert witness testimony in highway design, transit design and traffic engineering matters including condemnations involving transportation access issues; traffic accidents involving highway design or traffic engineering factors; land use and development matters involving access and transportation impacts, adequacy of environmental documentation; parking and other traffic and transportation matters.

MEMBERSHIPS

Institute of Transportation Engineers
Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Honnburger *et al.* Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

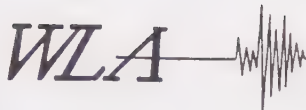
Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard *et al.*, U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.



Ann Broadwell
Lizanne Reynolds
Adams & Broadwell
651 Gateway Boulevard, Suite 900
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January 22, 1997

Re: Cowell Ranch DEIR Review

Dear Ms. Broadwell and Ms. Reynolds:

William Lettis & Associates, Inc. is pleased to submit this letter presenting the results of our geologic/geotechnical review of the Draft Environmental Impact Report (DEIR) for the proposed Cowell Ranch Project in Brentwood, CA. The following scope of work was performed in this review:

- review of the DEIR prepared by Wagstaff & Associates for the project;
- compilation and review of preliminary geologic/geotechnical reports prepared for the proposed project;
- compilation and review of existing published and unpublished literature and maps for the region and two dams in the site vicinity;
- examination of 1994 and 1995 stereo aerial photography of the site and vicinity;
- a brief field reconnaissance of the portions of the site visible from public roads bordering the proposed development area;
- preparation of this letter.

Below, we discuss first our general comments regarding the DEIR, followed by specific comments related to individual issues at the site.

General Comments:

The DEIR presents a thorough, complete discussion of potential geotechnical and geological constraints to the proposed development. The DEIR concludes that each of these constraints is a potentially significant issue that can be reduced to "less than significant" levels through subsequent detailed investigation and, as yet, undefined mitigation strategies.

In our opinion, insufficient data and information are presented in the DEIR with which to evaluate the location and/or extent of geologic hazards that may impact the proposed development. The DEIR essentially presents a "shopping list" of potential hazards, while deferring all characterization of the hazards and potential mitigation strategies to "subsequent geotechnical investigations". The "Soils and Geology" section of the DEIR is based on preliminary feasibility studies of the site. No in-depth studies incorporating subsurface investigation or detailed mapping have been conducted at the site to date. Therefore, in our opinion there is no basis at this time to conclude that many of the geologic hazards cited in the DEIR can be reduced to "less than significant" levels. Site specific geotechnical and geologic data should be developed and incorporated into the EIR prior to its approval so that the environmental consequences of the project are adequately characterized. The site specific studies should be of sufficient detail to

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identify the general location(s) and extent of potential hazards and to specify a range of likely mitigation alternatives. The current DEIR presents only a very general mitigation strategy and relies on "subsequent detailed studies" to characterize all hazards and to define specific mitigation alternatives. The DEIR essentially requests the County to approve the project on "good faith" without understanding the true extent or implications of the hazards present at the site. In our opinion, because of the general paucity of data in the DEIR, the County will be unable to make an informed decision regarding the environmental consequences of the proposed development.

The DEIR presents the position that detailed studies will be adequate to mitigate all identified potentially significant geologic and geotechnical hazards to a "less than significant" level. We disagree with the DEIR that the requirement of future work will *a priori* adequately reduce the potentially significant geologic impacts to a less than significant level without supporting data. The DEIR states that "there is substantial, reasonable historic information to support the conclusion that the specific subsequent geotechnical/geologic investigations, monitoring, and specification formulation identified in this Master EIR would adequately mitigate related impacts to less-than-significant levels." It is our opinion, however, that potentially adverse impacts cannot be mitigated by a recommendation of *future work* at the EIR stage. The conclusions presented in the EIR must be based on the available data. If inadequate data exists, it should be so stated in the EIR.

In our opinion, the existing project plan represents little more than a development scheme that is subject to significant revision as a result of future geotechnical work. Tentative subdivision maps do not yet exist for the project. Further refinement of the development plans are needed, so that independent reviewers will have the opportunity to assess an accurate project plan during the public comment period.

There are several important current references of detailed geologic studies conducted in the site area that are missing from the Soils and Geology section. These missing references contain valuable data and suggest that there has been an inadequate review of available geotechnical and geologic literature. Recent detailed geologic, geotechnical, and geoarchaeologic studies, for example, have been conducted for the nearby Los Vaqueros Dam project, but few of these investigations are referenced in this DEIR. In addition, the DEIR makes numerous unsupported and unreferenced assertions regarding the extent and magnitude of certain hazards. These assertions should be fully supported and documented by published literature and/or site-specific studies.

Specific Comments:

• General Geologic/Geotechnical Impacts. Insufficient data are presented in the DEIR to assess the general geologic impacts of the proposed project. The fundamental components of a state-of-practice geological/geotechnical report are not presented in support of this DEIR. Detailed geologic maps, geologic cross-sections, and isopach maps depicting deposit thickness have not been completed for the project at this time.

• Inadequate characterization of seismic hazards at the site. The DEIR does not accurately define the seismic potential of buried thrust faults associated with the Coast Range-Sierran Block Boundary Zone (e.g., "Coast Range-Central Valley Geomorphic Boundary" of the DEIR) (Wong and Biggar, 1989; Wong et al., 1988). Although the presence of potential "blind" faults is mentioned in the DEIR, the earthquake potential of such a structure beneath the site is not incorporated into the analysis of estimated ground motions. The DEIR mistakenly correlates the mapped surface faults (e.g., the Antioch, Brentwood, Davis, and Vaqueros faults) with the possible underlying blind thrust fault

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that defines the Coast Range-Sierran Block Boundary Zone. The relationship of the surface faults with the inferred blind thrust fault is not understood. To use only the mapped surface faults to define the potential seismic hazard is inadequate and will underestimate the level of vibratory strong ground motions that may occur at the site.

The mapped surface faults in the site vicinity (e.g., the Antioch, Brentwood faults, etc.) are described in the DEIR (and in the Harding Lawson preliminary geologic study) as normal faults. To use these faults to characterize the hazard associated with an inferred blind thrust fault is incorrect. Table 35 of the DEIR shows that the "Faults along the East Flank of the Coast Ranges" are capable of a MCE of 6.5, which would result in peak ground accelerations of about 0.74 g. This may be an accurate characterization of the ground motions associated with the mapped surface faults in the site vicinity, but does not accurately reflect the potential level of strong ground motion associated with an earthquake generated beneath the site on a blind thrust fault. The largest historic earthquake on such a fault along the Coast Range-Sierran Block Boundary Zone appears to be the 1892 M6.8 Winters-Vacaville earthquake. Recent published literature suggests that the buried thrust system may be capable of generating earthquakes as large as M6.8 to 7.1 (Wakabayashi and Smith, 1994). The 1996 HLA letter report indicates that peak ground acceleration of as much as 1.0 g may occur near the epicenter of a large earthquake along the Coast Range boundary zone, but this conclusion is not presented in the DEIR.

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In our opinion, an accurate assessment of the Coast Range-Sierran Block Boundary Zone must be presented in the EIR. It is the largest fault system in the site area with the highest slip rate, most frequent occurrence of large earthquakes, and it was the source of the largest historic earthquake in the region (i.e., the 1892 Winters-Vacaville earthquake). Ground motions from an earthquake on this fault may produce secondary ground deformation in the site area and will produce significant levels of strong ground motion. The level of ground motion will potentially have adverse impacts on stability of the Marsh Creek Dam (see below) and the potential for dynamic slope failure and liquefaction in the project area. These impacts should be addressed in the DEIR.

The discussion of fault activity presented in the DEIR is confusing and should be clarified. The DEIR describes detailed geologic studies indicating that the mapped surface faults crossing the site (e.g., Davis, Brentwood, Vaqueros faults, etc.) have not been active in the Holocene, which implies that they are inactive. This low activity level is used to support the conclusion that the faults are capable of only small surface displacements, probably as a result of triggered slip. As described in the DEIR, the locations of these small surface displacements would restrict the siting of critical facilities only. The DEIR goes on, however, to describe historic microseismicity along the faults, indicating that the faults are active seismogenic structures. If the faults are active, all structures for human occupancy should be setback from the traces, as required by the California Alquist-Priolo Earthquake Fault Zoning Act. A more thorough characterization of fault activity and regional microseismicity must be conducted before the extent of seismic hazards at the site can be properly characterized and mitigated.

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The faults shown on Figure 39 appear to be incorrectly labeled. The Davis fault lies west of the Brentwood fault in all published literature (and in Figure 41 of the DEIR).

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The description of the style of faulting on the Davis fault (p. IV.D-19) is not accurate and should be clarified. The DEIR describes the fault as a normal fault that moves laterally, with a western block that moves upward during earthquake events. This sentence describes the Davis fault as three things: a normal fault, a strike-slip fault, and a reverse slip fault. It can be only one type of fault. An accurate characterization of the fault is

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essential for assessing the level of fault activity and potential structural association of the fault with nearby active faults. For example, is the fault a strike-slip fault related to the Greenville fault system, or a secondary normal fault resulting from arching associated with the underlying Sierra Nevada-Coast Range Boundary fault zone, or a primary thrust or reverse fault resulting from movement on the underlying Coast Range-Sierran Block Boundary Zone?

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The discussion of seismic hazards presented in the DEIR does not contain a review of current existing literature relevant to the site. For example, several key references to detailed geologic studies associated with the nearby Los Vaqueros Dam project are not included. Woodward-Clyde Consultants (1988) conducted a detailed seismic hazard assessment for the Los Vaqueros project, including fault trenching and an assessment of regional seismicity. Meyer (1996) evaluated the geoarchaeology and landscape evolution of the region, including a discussion of modern and buried soils in the project area.

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Because no site-specific data have been generated during preliminary feasibility studies for the project, the EIR should include a compilation of all fault trenches excavated at the site during previous studies. Trench logs should be included in an appendix.

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• Marsh Creek Reservoir Dam. Marsh Creek Reservoir Dam is an earth-fill embankment dam built in 1962. The dam was designed in 1961 for seismic ground shaking of 0.1 g. Subsequent advances in the understanding of the seismic potential of the region indicate that the level of ground shaking used in the design of the dam is too low. A 1981 stability evaluation of the dam by the California Department of Water Resources (DWR) indicated that peak ground accelerations of 0.4 g may occur at the dam leading to up to three feet of displacement of the embankment. More recent studies, however, suggest that peak ground accelerations of up to 1.0 g may occur at the site (HLA, 1996). The ability of the dam to withstand 1.0 g peak ground acceleration is not known. Certainly, displacements greater than 3 feet are likely to occur. Failure of the dam and an uncontrolled release of water from the reservoir would inundate a large area within the proposed development (e.g., planning areas 21, 23, 27, and 33). The DEIR states that the responsibility for analyzing and mitigating this hazard belongs to DWR and the County Water District. It is not clear that these agencies are prepared to undertake a new seismic stability analysis and major seismic retrofit of this flood control dam. In our opinion, the EIR should provide an explicit acknowledgment that DWR and/or the County Water District are prepared to accept this responsibility.

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• Cut and Fill Slope Stability. Cut slopes up to 70 feet high and fill slopes up to 70 feet high are planned for the Cowell Ranch development. However, no site-specific data are provided to evaluate the nature or strength of cut and/or fill materials. No subsurface data have been collected to assess the material that will be exposed in critical cut slopes, or the material upon which thick fills will be placed. Without preliminary data on the strength of geologic materials at the site, it is not possible to conclude that high cut and/or fill slopes are feasible at the site. While we understand that detailed geotechnical investigations are an essential part of final design, in our opinion at least some subsurface investigations should be completed prior to the development of conclusions regarding cut and fill slope stability impacts. Future geotechnical work may determine that substantial changes are required in the development plan to address unforeseen complications. The possibility that such complications might impact the design process should be eliminated prior to the acceptance of the DEIR, while the public still has an opportunity to comment.

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• Liquefaction hazard. Preliminary feasibility studies have identified potentially liquefiable deposits in alluvial valleys within the project area. In our opinion, however, mapping of the distribution, extent, and thickness of potentially liquefiable deposits at the

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site is inadequate. Detailed geologic mapping has not been conducted to determine the areal extent of young alluvial deposits, and no subsurface data have been collected to assess the thickness of potentially liquefiable deposits and the depth of groundwater. As stated previously, in our opinion at least some level of subsurface investigation should be conducted prior to formulation of conclusions regarding the status of environmental impacts for the project.

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• Landsliding. The distribution, activity, and failure mode of landslides in the project area has not been adequately characterized. To date, only a preliminary landslide map has been developed by HLA. Based on our interpretation of aerial photographs and a brief field reconnaissance, we noted several landslides that do not appear on the preliminary Geologic Map prepared by HLA or the Geologic map presented in the DEIR. Since our site reconnaissance was limited to observation from public roads, we were able to field check only a small part of the proposed development. In the areas we could evaluate during our field reconnaissance, we noted additional landslides along the northeast-facing hillslope of the northwest-trending ridge in the northwesternmost corner of the area shown in Figure 40 of the DEIR (e.g., East Village, East Creekside, and West Creekside subareas), and along the west-facing slope just to the south bordering the Marsh Creek valley. Very little of the North Village/North Hills portion of the proposed development is visible from public roads, but we did note one low angle feature just west of the PG&E compressor station that we infer to be a substantial earth flow that does not appear on Figure 39 in the DEIR. More detailed landslide identification and mapping should be completed before the extent of this hazard can be assessed.

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No site-specific data have been collected to determine the depth or geometry of any landslides at the site. The mode of failure of landslides at the site has not been analyzed. Preliminary static and dynamic slope stability analyses have not been performed to assess the stability of any existing or planned slope configurations. As such, the conclusion that landslide hazards at the site can be mitigated to a "less than significant" level is unsubstantiated. It should be noted that large parts of the proposed development are underlain by bedrock materials that are susceptible to slope failure. Where not characterized properly, slopes underlain by Cretaceous marine shales and sandstones have caused significant delays and slope stability concerns in recent developments throughout the eastern San Francisco Bay area.

• Ground Shaking. The DEIR incorrectly states that the proposed mitigation measures for the ground shaking hazard (e.g., adherence to UBC, etc.) will reduce the impact to a less than significant level. Modern seismic design criteria and construction methods should reduce the potential impacts of seismic shaking to levels short of structural collapse, but modern codes do not preclude significant damage to structures and damage and disruption of infrastructures and services should a major earthquake occur in the site area.

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Recommendations:

As stated above, the DEIR contains too little data, and relies too heavily on mitigation of the substantial geological impacts facing the proposed project via future detailed geotechnical and geological work. In our opinion, a significant amount of this detailed investigation should be done prior to the acceptance of conclusions that the impacts can be successfully mitigated. Although the information presented is conceptual only, areas of specific concern can already be identified, and these areas should be characterized prior to acceptance of an EIR for a project of this scale.

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Sound geological study is the foundation of good planning. Project planning for the proposed development appears to be proceeding without adequate geologic and/or

geotechnical input. Future geotechnical investigation is likely to require substantial revision to the existing project plan. Significant revision of the project may necessitate supplemental environmental review. In our opinion, comprehensive geological and geotechnical data should be incorporated into the project plan at this time.

No subsurface information is presently available for the project area. In our opinion, site exploration should be conducted to determine the subsurface conditions and to determine the engineering properties of the materials encountered. For example, subsurface data should be collected at critical areas where unstable slopes may impact the proposed development, where thick fills will be located and at locations of high cut or fill slopes. Areas of potential liquefaction should be defined and analyzed.

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The presence of an out-dated flood control structure (e.g., Marsh Creek Dam) that poses a significant hazard of uncontrolled release due to seismically-induced failure needs to be better characterized, and the mechanism of responsibility and funding should be better defined prior to the acceptance of this EIR.

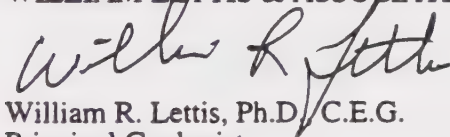
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The seismic hazards associated with this proposed development should be better defined. Specifically, a more sophisticated treatment of the principal seismic hazard in the region, buried reverse faults along the Coast Range-Sierran Block Boundary Zone, should be presented. This analysis should derive peak ground motions that would be anticipated from a M7 reverse faulting event directly beneath the site.

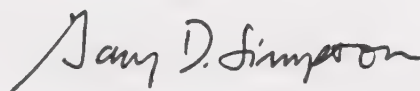
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It has been a pleasure reviewing this substantial project. If you should have any questions or comments, please do not hesitate to call our office. Thank you for the opportunity to assist you on this project.

Respectfully,
WILLIAM LETTIS & ASSOCIATES, INC.



William R. Lettis, Ph.D./C.E.G.
Principal Geologist



Gary D. Simpson, R.G.
Project Geologist



REFERENCES

- California Department of Water Resources, 1978, Preliminary Report - Faults and Seismicity at Los Vaqueros Dam Site. 49 p. with figures and trench logs.
- Carlson, Barbee & Gibson, Inc., Preliminary Land Use Summary and Cut and Fill Map for the Cowell Ranch Project, Contra Costa County, CA. 2 sheets.
- Darwin Myers and Associates, 1990, Draft Environmental Impact Report for the Marsh Creek Watershed Regional Drainage Plan. 108 p. with appendices.
- Harding Lawson Associates, 1991, Preliminary Engineering Geologic and Geotechnical Evaluation, Marsh Creek site, Contra Costa County, CA. 26 p. with plates.
- Harding Lawson Associates, 1996, Geotechnical Review of the Cowell Ranch Property, Contra Costa County, CA. 6 p.
- Meyer, J., 1996, Geoarchaeological Implications of Holocene Landscape Evolution in the Los Vaqueros Area of Eastern Contra Costa County, CA. Unpublished Masters Thesis, Sonoma State University. 118 p.
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- Wakabayashi, J. and Smith, D.L., 1994, Evaluation of Recurrence Intervals, Characteristic Earthquakes, and Slip Rates Associated with Thrusting along the Coast Range-Central Valley Geomorphic Boundary, CA: Bulletin of the Seismological Society of America, v. 84, no. 6, pp. 1960-1970.
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- Woodward-Clyde Consultants, 1988, Seismic Hazard Assessment - Los Vaqueros Dam. 117 p. with plates, tables, and appendices.

WILLIAM R. LETTIS, Ph.D., R.G., C.E.G.
Principal Geologist

*Seismic Hazard Assessment
Neotectonics
Engineering Geology*

EDUCATION

University of California, Berkeley, CA: *Ph.D., Geology, 1982*

University of California, Berkeley, CA: *M.S., Geology, 1979*

Humboldt State University, Arcata, CA: *B.S., Forestry, 1977; B.S., Geology, 1977*

REGISTRATION

Professional Geologist: Registered Geologist, California No. 4079, 1986

Certified Engineering Geologist, California No. EG 1296, 1986

REPRESENTATIVE EXPERIENCE

Dr. Lettis is responsible for conducting regional and site investigations to assess seismic hazards in both active plate margin and stable intraplate tectonic environments. These investigations typically involve the deterministic and probabilistic characterization of seismic sources for hazard evaluations. A major emphasis of Dr. Lettis' work has been the interpretation of soil profile development, Quaternary stratigraphy, and geomorphology to assess regional neotectonics and the character and age of local surface deformation and faulting. In stable intraplate regions, Dr. Lettis has participated on studies to assess the regional seismotectonic setting and to identify and characterize seismic source zones based on analyses of seismicity, tectonic features, and tectonic provinces. He has conducted field and office studies for hydroelectric and nuclear generating facilities, missile silos, nuclear waste repositories, and major oil and coal slurry pipelines in the western and southeastern United States, and in southeast Asia, the Middle East, the People's Republic of China, northern Africa, and South America.

Seismic Hazard Assessment

- A major emphasis of Dr. Lettis' work has been the interpretation of soil profile development, Quaternary stratigraphy, and geomorphology to assess regional neotectonics and the character and age of local surface deformation and faulting. He is currently Project Manager for seismotectonic evaluations of thirty-two U.S. Bureau of Reclamation dams in the western United States. The project involves the geologic and seismologic characterization of known and potential earthquake sources in specific geologic provinces of the western United States, and the deterministic assessment of ground motions at specific dam sites.
- Dr. Lettis also has conducted seismic hazard evaluations for numerous Pacific Gas & Electric facilities throughout California. He investigated the earthquake vulnerability of PG&E's gas supply and distribution system, including pipelines, compressor stations, terminals, and pressure-limiting stations. The project involved preparing liquefaction and slope stability hazard maps covering all of northern and central California, site assessments of above ground facilities, and assessments of fault activity at pipeline crossings, including 4 pipeline crossings of the Hayward fault. Dr. Lettis currently is Project Manager of a comprehensive fault evaluation for PG&E's Lake Almanor Dam in the Northern Sierra Nevada. The study involves detailed fault mapping and trenching to assess fault location, recency of activity, MCE and displacement per event. Dr. Lettis also is completing a comprehensive, seven-year investigation of Quaternary faulting in central coastal California as part of PG&E's Long-Term Seismic Program for the Diablo Canyon Power Plant. For this study, Dr. Lettis directed a program of mapping, drilling, trenching and age dating to evaluate the capability and behavior of over 20 potentially capable faults including the San Simeon, Hosgri, and Los Osos faults.

William R. Lettis, page 2 of 3

- Dr. Lettis currently is Project Manager of the Shivta Nuclear Power Plant Project in the northern Negev Desert, Israel. He is directing a team of WLA and Israeli geologists, seismologists, and geophysicists to assess seismic hazards in the proposed site area, and will prepare a preliminary and final safety analysis report for submittal to the Israeli Atomic Energy Commission.
- Dr. Lettis recently directed a seismic vulnerability assessment of the Marin Municipal Water District's backbone water supply system. Hazards assessed include liquefaction, earthquake-induced slope failure, surface fault rupture, and strong ground motions from three scenario earthquakes. Dr. Lettis also is providing technical review for seismic hazards assessments of the Los Alamos National Laboratory and Sandia National Laboratory in the Rio Grande Rift, New Mexico.
- Dr. Lettis has conducted several seismic hazard investigations in the eastern San Francisco Bay area and San Joaquin-Sacramento Delta. For the Association of California Water Agencies (ACWA), he evaluated the impact of seismic hazards to water systems in the Delta. In addition, Dr. Lettis has characterized the activity, location and geometry of the Coast Range-Sierra Nevada Boundary fault zone in the southwestern Sacramento Valley for the U.S. Bureau of Reclamation and in the northwestern San Joaquin Valley for the U.S. Geological Survey. He has also performed numerous research and consulting investigations of fault activity along the Calaveras, Hayward, Ortagalita, Green Valley and San Joaquin faults in the eastern Bay area.

Slope Stability Investigations

- Dr. Lettis has performed investigations of slope stability in a wide range of geologic settings. Studies have included surface mapping, subsurface drilling, sampling, and instrumentation, large-diameter borehole logging, and static, pseudo-static, and dynamic analyses of slope stability. Specific projects include evaluating the cause and failure mechanism of the Sunrise Hill landslide in Orinda, CA; assessing native and cut slope stability of the Altamont Landfill expansion area including the identification and characterization of twenty-three landslides near Altamont Pass, CA; evaluating the cause and failure mechanism of a large debris flow in Yuba County, CA; and providing peer review for slope stability assessments for the Sky Valley development, Vallejo, CA. Dr. Lettis also has evaluated rock slope stability for the MX-Missile Test tunnel and silo at the Nevada Test site, and for the New Hogan Dam Powerhouse in the Sierra Nevada.

Technical Peer Review

- Dr. Lettis provides technical peer review for seismic hazard investigations throughout the United States and abroad. For PG&E, he has reviewed several paleoseismic investigations conducted by the PG&E to assess seismic hazards to their hydroelectric facilities in the northern and central Sierra Nevada. He also is providing technical review for seismic hazards assessments of the Los Alamos National Laboratory and Sandia National Laboratory in the Rio Grande Rift, New Mexico, and for the Shivta Nuclear Power Plant in the northern Negev Desert, Israel.
- Dr. Lettis has performed numerous technical reviews of proposed subdivisions and construction projects for the cities of Orinda and Vallejo. These reviews have covered projects involving complex geologic issues such as hillside mass grading and landslide stabilization.

Expert Witness

- Dr. Lettis provides expert witness services related to the identification and characterization of geologic hazards. He provided expert testimony on the cause, timing, and failure mechanism of a large debris flow for the Yuba County Water Agency, and on the geologic setting of the San Joaquin Valley for the Westlands Water District.

Research Investigations

- Dr. Lettis has been the Principal Investigator on sixteen research projects sponsored by the U.S. Geological Survey and the National Science Foundation to assess earthquake hazards in California. These studies include paleoseismic investigations of the San Andreas, Calaveras, San Gregorio, and Shannon-Monte Vista faults in the San Francisco Bay region, geomorphic analyses of the 1989 Loma Prieta, 1987 Whittier Narrows, and 1994 Northridge earthquakes, and liquefaction mapping of the Napa, San Francisco, and Stockton 1:100,000 scale quadrangles. Dr. Lettis provided technical review for seismic hazards assessments of the Los Alamos National Laboratory in northern New Mexico and for the Shvta Nuclear Power Plant in Israel. As Co-Principal Investigator, Dr. Lettis also completed an investigation sponsored by the U.S. Nuclear Regulatory Commission to evaluate the late Quaternary history and seismotectonic setting of the Meers fault, Oklahoma. Dr. Lettis recently delivered an invited lecture on fault activity assessment techniques for the technical seminar on earthquake engineering hosted by the Association of State Dam Safety Officials.

COMMITTEES AND EXPERT PANELS

- Co-Chairman, American Nuclear Society (ANS) Working Group Committee 2.27 to develop evaluation criteria for assessing seismic hazards for nuclear materials facility, 1996
- Member, Board of Directors, Cooperating Organizations of Northern California for Earthquake Research and Technology (CONCERT) 1993 to present
- Member, Expert panel to assess earthquake hazards in the southeastern United States, Lawrence Livermore National Laboratory/Department of Energy, 1990 to present
- Invited Symposium Moderator, Earthquake Risk and Hazard Mitigation Symposium, Association of Geologists 38th Annual Meeting, 1995
- Member, California Division of Mines and Geology Advisory Committee on Liquefaction Hazards, 1991 to 1993
- Member, California Seismic Safety Commission, Geology/Seismology Subcommittee, 1988 to 1990
- Member, NASA Science Committee, 1985

AFFILIATIONS AND AWARDS

- American Geophysical Union
- Association of Engineering Geologists
- Geological Society of America
- Earthquake Engineering Research Institute
- Seismological Society of America
- Geological Society of America, Penrose Grant, 1979
- University of California Regents Fellowship, 1977-1978

REFERENCES

- Dr. Lettis has authored or co-authored over 100 peer-reviewed articles, maps and abstracts. A list of publications is available upon request.

GARY D. SIMPSON, M.S., R.G.
Project Geologist

*Quaternary Geology
Engineering Geology
Neotectonics*

EDUCATION

Humboldt State University, Arcata, CA: M.S., Geology, 1990
Humboldt State University, Arcata, CA: B.A., Geology, 1985

REGISTRATION

Registered Geologist, California, No. 6000, 1994

PROFESSIONAL HISTORY

William Lettis & Associates, Inc., Walnut Creek, CA, Staff Geologist, 1990-date
Busch Geotechnical Consultants, Arcata, CA, Project Geologist, 1989-1990
Humboldt State University, Arcata, CA, Teaching Assistant, 1987
Woodward-Clyde Consultants, San Diego, CA, 1985-1986

REGISTRATION

Professional Geologist: Registered Geologist, California No. 6000, 1994

REPRESENTATIVE EXPERIENCE

Mr. Simpson is a Registered Geologist experienced in the use of soil stratigraphy and geomorphic relations to assess fault activity and Quaternary deformation. Mr. Simpson is responsible for conducting field mapping and site investigations for fault evaluations, and soils engineering and slope stability analyses. He is experienced in the application of Quaternary geology, neotectonics and soil-profile development to earthquake-related studies and geotechnical engineering. Mr. Simpson has worked professionally in the San Diego, Humboldt County, and San Francisco Bay areas of California. He is familiar with a wide range of subsurface exploration techniques, and has extensive experience in trenching investigations to assess surface fault rupture hazards. Mr. Simpson has acted as co-Principal Investigator of four National Earthquake Hazard Reduction Program (NEHRP) paleoseismic studies, including investigations of the northern Calaveras fault in Alameda and Contra Costa Counties (two years), the northern San Gregorio fault in coastal San Mateo County, and the San Andreas fault at Fort Ross State Historic Park. He has also participated in NEHRP-funded studies of the Steens Mountain fault in southeastern Oregon and on the Reelfoot fault within the New Madrid Seismic Zone. Mr. Simpson has conducted numerous Alquist-Priolo fault hazard investigations in northern California, in particular along the Hayward fault in Fremont and Berkeley, and within the Mad River fault zone in coastal Humboldt County. He has also recently led a trenching investigation to assess fault rupture hazards at Lake Almanor and Butt Valley Dams in the northern Sierra Nevada/Modoc Plateau region, and has participated in an extensive trenching investigation of potentially active faults at Los Alamos National Laboratory in New Mexico. Mr. Simpson has also recently completed comprehensive seismotectonic evaluations of U.S. Bureau of Reclamation dams in the northern Coast Ranges of California and in the Blue Mountains region of northeastern Oregon. Mr. Simpson completed a state-wide assessment of the seismic vulnerability of PG&E's above-ground natural gas supply facilities, including the potential for surface fault rupture, slope failure, and liquefaction along the Hayward fault. He participated in a comprehensive seismic vulnerability study of the Marin Metropolitan Water District's back-bone supply system, which involves regional zonation mapping of liquefaction susceptibility, slope failure potential, and seismic ground response.

AFFILIATIONS AND AWARDS

*Geological Society of America; Friends of the Pleistocene, Pacific Cell
Penrose Research Grant, Geological Society of America, 1988*

Gary D. Simpson, page 2 of 2

RELEVANT PUBLICATIONS

- Simpson, G.D., Noller, J.S., Thompson, S.C., Lettis, W.R., and Lightfoot, K., 1994, Use of geoarchaeological techniques in paleoseismic investigations of the San Andreas and San Gregorio California [abs.]: 1994 Geological Society of America annual meeting, Seattle, WA.
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- Kelson, K.I., Simpson, G.D., Lettis, W.R., and Haraden, C.C., 1996, Holocene slip rate and recurrence of the northern Calaveras fault at Leyden Creek, northern California: Journal of Geophysical Research, Solid Earth, v. 101, p. 5961-5975.



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January 27, 1997

Ms. Ann Broadwell
Adams & Broadwell
651 Gateway Boulevard, Suite 900
South San Francisco, CA 94080

RE: Review of Cowell Ranch Project General Plan Amendment and Related Actions
Draft Environmental Impact Report (County File #1-92-CO; SCH #93013024)

Dear Ms. Broadwell:

At your request I have reviewed the Draft EIR for the Cowell Ranch Project. The project at buildout could include 5,226 residential dwelling units, 1.86 million square feet of commercial and business park space, a golf course and associated public, recreational and institutional uses on a 4,277-acre site in eastern Contra Costa County. The site is under the jurisdiction of the County but partially within the Sphere of Influence of the City of Brentwood.

The most significant flaw in the EIR is that many of the supposed mitigation measures are actually deferrals to further studies and development of future mitigation measures, yet in each case the EIR concludes that the relevant impact would be mitigated to less-than-significant through the mitigation. Since many of the future mitigations are uncertain and speculative at best, there is no basis for the EIR to conclude that such mitigations would reduce the impacts to a less-than-significant level. Therefore, many impacts of the project, as detailed in my comments below, are significant but unmitigated impacts. The EIR is inadequate for concluding that impacts that are significant and unavoidable are mitigated to less than significant.

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Another major flaw in the analysis is that many of the mitigations have a high but unknown cost which could either render them infeasible or greatly inflate the overall cost of the project. In order to be profitable, the individual units would have to sell or rent for a cost so high as to make the concept of "affordable" units inviable. This would invalidate one of the guiding principals adopted for the project, which is to provide a diversity of housing units that would be consistent with the County goal of "a balance of uses that would work together to support broad human needs as a largely self-contained community within the City of Brentwood." (p. III-9, Draft EIR). Many of the jobs that would purportedly exist in the business parks within the project would be in the pay range which would require relatively low-cost housing in order for the personnel who worked at Cowell Ranch to also afford to live there. Unless it were the case that

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Conservation Planning and Implementation



Environmental Impact Analysis

Geographic Information Systems



Wetland Delineation



Biological Surveys

the majority of the residents in the project worked within the project and the majority of workers in the project could afford to live there, the project would not provide a jobs/housing balance, but would only be encouraging more long- distance commuting, with its accompanying adverse environmental impacts.

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The EIR lists under each environmental factor a long list of relevant policies and programs. Yet the EIR fails completely to provide an evaluation of the project in relation to each one of these relevant policies and programs, to actually determine whether the project actually conforms or fails to conform to the numerous County and City General Plan policies it lists for each section. Specific examples are given in the following discussion of the inadequacies of the Draft EIR.

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I. ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

A. LAND USE

1. The projects list on pages IV.A.9 and IV.A.10 is incomplete, and does not list a valid source.

Table 9 (p. IV.A-9) of the Draft EIR lists anticipated new development in East Contra Costa County and surrounding areas. However, there is not enough information given to determine whether this is a complete list of all of the pending projects which are relevant to the cumulative impact setting of the proposed project. In addition, no information is given regarding the relative time frame for buildout of the other projects, nor their current status (e.g. are they currently pending, approved, or conceptual only?) For which projects has an EIR been certified? Also, the table lists Wagstaff and Associates as a source. A proper source would be the relevant planning entities of the cities and counties. Since these entities were not listed as a source, the implication is that they were not consulted. The EIR needs to clarify why each of the projects is included in the list, what sources were consulted in compiling the list, what is the current processing or permitting status of each of the projects on the list, and provide the basis to show that the list is complete.

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2. Past history shows that there is no basis for concluding that a jobs/housing balance will be achieved.

It appears likely that the project, when built, could actually fall far short of meeting a jobs/housing balance, but near-term and future residential phases could all well be approved anyway, based on the information contained in the EIR. This would have the effect of greatly increasing the environmental impacts of the project on traffic, air quality and energy use, and would have negative fiscal impacts on local government and other residents of the city and county.

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Both the County and the City have General Plan policies specifying that the jobs/housing balance should be a minimum of 1:1 (SPA "J" Provisions), as listed on p. IV.A.28 of the Draft EIR and "Promote a jobs/housing balance of 1:1 to encourage community self-sufficiency and reduced commute trips and associated air pollution (Land Use Element, Policy 1.1.5) (Draft EIR, p. IV.A.29). The County General Plan Principles and Guidelines for Cowell Ranch, as listed on p. IV.A.27 of the Draft EIR

states that Cowell Ranch should be planned as a mixed-use community with a diversity of housing... (and) sufficient land for employment to accommodate a jobs/housing balance.

However, Table 10 on pp. IV.A.17 through IV.A.18 of the Draft EIR which lists recently completed, approved or current pending projects in the Brentwood Planning Area shows that virtually all of the projects which have been approved or completed, and all of the pending projects are residential. The City of Brentwood has approved 6,427 residential units and only 57,000 square feet of non-residential development. At 300 sf/employee, as listed in the Keyser Marston report, this is enough square footage for 191 jobs. At 1.4 employed residents per household (from Table 8 of the Draft EIR data for Brentwood for 1995), 6,427 residential units would generate 8,997 employees. Thus the ratio of employed residents to new jobs created for Brentwood now stands at 47.1:1 (i.e. 8997/191), a far cry from the 1:1 ratio specified in the General Plan.

Other economic factors make it unclear that the type of high tech and corporate businesses the project envisions would actually locate at Cowell Ranch. The fiscal analysis compares the project to the Shadelands Office Park in Walnut Creek, along Ygnacio Valley Road, and lists the major tenants which have located within Shadelands (Kaiser Permanente, PacTel and Chevron). Cowell Ranch is not comparable to Walnut Creek as it is 20 miles more distant from the major business centers in the greater Bay Area and 40 miles from the nearest major airport (Oakland International). Although ABAG has made optimistic projections for job growth in East Contra Costa County by the year 2010, these projections do not appear to take into account the probable insufficiency of the transportation corridors (Highway 4 and 680). In addition, the project is located 10 miles from Highway 4 and so is not on even the main existing East County transportation route. It is likely that the employment component of Cowell Ranch would not be absorbed for a much longer period of time than was assumed in the EIR analysis.

In the absence of strict enforceable mitigation measures, it appears that virtually all of the residential development within the Cowell Ranch project would be approved in the future with very little of the non-residential component being built. This would have the effect of making the Cowell Ranch project another giant residential subdivision rather than a new community, with virtually all of the residents having to commute out long distances to work. In addition, a lack of the commercial component would produce an extremely detrimental ratio of costs to revenues for local government.

Impact LU-3: Impacts on Regional Housing Needs: The Project Housing Strategy and Project Housing Mix and Affordability Monitoring Program need to be addressed at this stage. In particular, many aspects of the project could destroy the viability of an affordable housing strategy. The jobs/housing balance purported to be the benefit of the project could be compromised or eliminated if affordable housing becomes infeasible. Aspects of the project which could vastly escalate its costs include:

- numerous geotechnical hazards
- wastewater facilities development costs
- school facilities mitigation costs
- fire protection facilities (new fire stations and equipment)

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- police protection staffing and equipment

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LU-11: Onsite Jobs/Housing Balance: (p. II-8 and IV.A-59) To minimize adverse impacts of the project and to maximize net revenue benefits to local government, each project phase should be tied to specific goals not only for jobs and housing but for percentage of project residents working within the project. The County should retain the flexibility to curtail or change the project should the goals fail to be met.

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Impact LU-17: Project Water Tank Impacts: (p. II- 11 and IV.A. 67) Design criteria should be specified now to ensure that adequate fire flow and other storage is being provided.

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B. AGRICULTURE

1. **The Draft EIR incorrectly concludes that wetlands on agricultural areas might make these areas more suitable for development (p. IV.B-20).**

The EIR states (p. IV.B-20) that "some prime soils on the site contain jurisdictional wetlands and/or are in the vicinity of Marsh Creek or the Kellogg Creek side channel. These factors could be seen as reducing the long-term suitability of the prime soils for agricultural production. " The implication of this statement is that since these other factors interfere with agricultural production then these areas can be developed. Instead, the opposite is true. The combined values of agricultural production and other resource values make it more important that such areas be preserved from development.

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Impact AG-1: Loss of Lands with Prime USDA/SCS Ratings: The EIR needs to provide more analysis of whether prime agricultural lands on the site could be avoided.

Mitigation AG-1 addresses redesign of the project to avoid areas of prime agricultural land. The discussion of the measure (p. IV.B-21) lists the planning areas within the project by number which would either have to be completely or partially omitted from development in order to reduce or eliminate loss of prime agricultural lands. The EIR should include a specific assessment of how many units would have to be eliminated from each Planning Area and subarea to preserve the prime lands within that area. In addition, some of the Planning Areas listed in the discussion on p. IV.B-21 are designated as commercial/office (e.g. Planning Areas 44, 45, 46, 47) parks and recreation (e.g. Planning Areas 54, 56, 21, 23) or Public/Semi-Public (Planning Area 57). This implies that these areas could not be eliminated from the development without substantially changing the overall design and layout of the project, which in turn implies that the areas cannot be left in agriculture if the project is to go forward largely as planned.

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Alternatively, it means that if substantial areas of the project intended for commercial/office or parks and recreation were to be left in agriculture, this could substantially affect the project balance between housing and job opportunities and also reduce the project's ability to meet County standards for parklands. These conflicting issues should be addressed in the EIR as part of the discussion of Mitigation AG-1.

The Draft EIR should state whether the suggested mitigation measures are feasible.

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Impact AG-3: Impacts on Remaining Onsite Agriculture: (p. II-13 and IV.B- 22). A Right-to-Farm Agreement Should be Included as part of mitigation for Impacts to Surrounding Agriculture.

Mitigation AG-3 states Provide for project occupant notification regarding agricultural activities and the County's Right-to-Farm Ordinance. And "Enforce the Right-to-Farm Ordinance" and the County's lease law. However, Mitigation Measure AG-3 should include the provision that the project applicant execute a Right-to-Farm Agreement with the adjoining landowners that specifies the types of conflicts that could arise between project land uses and adjoining farming and

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(1) specifically limits or waives the project's right to seek legal action for the types of nuisance or annoyance effects which are an unavoidable part of an agricultural operation.

(2) specifically preserves the farmers' rights to seek legal remedies for actions brought about by the project which are known to damage crops or make farming increasingly difficult.

D. SOILS AND GEOLOGY

In general, the Draft EIR should evaluate the financial feasibility of all of the mitigation measures related to soils and geology, as many of them may not be financially feasible considering the magnitude of the geotechnical problems on the site.

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E. DRAINAGE, FLOOD CONTROL, AND WATER QUALITY

Impact D-1: Marsh Creek discharge rate and duration of overbank flooding: The mitigation measure requires the applicant to design improvements in accordance with CCCFCWCD standards. This shall be confirmed through applicable hydraulic and hydrologic studies (p. II-24). There is no indication with this measure of when the improvements would be designed or when the hydraulic and hydrologic studies would be conducted. Until both the designs and the hydrologic studies are done there is no basis to conclude that the impacts would be reduced to less-than-significant.

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Impact D-4: Marsh Creek channel capacity: The mitigation is for the applicant to submit for County review and approval: (1) development standards and engineering information, (2) plans to increase the Marsh Creek channel capacity between Marsh Creek Reservoir and Concord Avenue, and (3) an associated maintenance plan for vegetative thinning, and a commitment to meeting all jurisdictional approval requirements associated with modifying the creek channel. It is not at all clear that such plans to increase channel capacity would not have unacceptable biological impacts to fish habitat, loss of wetlands or other vegetation, and that they could meet all jurisdictional approval requirements. The Draft EIR must discuss these issues. There is no basis for the EIR to conclude that the COE would grant a permit for this project if the biological impacts were adverse and not possible to adequately mitigate. Implementation of this measure may also conflict with the mitigation measure for

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riparian habitat described in the Habitat Management Plan (p. 45) which calls for planting riparian vegetation in the creek corridor for wildlife and bank stabilization. The EIR should discuss this potential conflict.

Impacts D-9 through D-10: Golf Course Fertilizer and Pesticide Impacts (p. II-27 and III.E.31-III.E-33). An alternative mitigation that should be seriously considered is elimination of the golf course entirely. This would eliminate both its irrigation requirement and its fertilizer/pesticide/herbicides requirements. The adjoining Spanos property project has a golf course. A survey should be done to determine the need for/demand for more golf courses? The EIR does not state whether the golf course is expected to be public or private. If private, it may not have the appropriate cost/benefit ratio to justify being built. Also, a golf course is a major consumer of excess water, and should not be permitted unless entirely irrigated with reclaimed water.

Golf course fertilization is not avoidable because it is necessary (as is watering) to achieve the long-term, continuous growth of grass needed on greens, tees and fairways. However, the use of reclaimed wastewater could provide almost all of the fertilizer requirements of the golf course without contributing to ground or surface water pollution. In studies done for the Pacifica Wastewater Facilities Plan EIR (1994) one option considered was disposal of some of the Title 22, tertiary effluent on the nearby Sharp Park Golf Course. The effluent was expected to have a total nitrogen content of 4 ppm in dry weather and 5 ppm in wet weather. Total phosphorus was to be 2 ppm in both seasons. Total fertilizer requirements and the amount able to be supplied by 300,000 gpd of reclaimed wastewater are shown in the table below:

GOLF COURSE COMPONENT	AREA (percent of total area)	NUTRIENTS REQUIRED in POUNDS PER ACRE PER YEAR/PERCENT OF THE REQUIREMENT SUPPLIED BY RECLAIMED WASTEWATER	
		Nitrogen	Phosphorus
Fairways	80 (94%)	20.9	1.9
		88 percent	484 percent
Greens	2.3 (3%)	443	148
		4 percent	6 percent
Tees	3.2 (4%)	369	235
		5 percent	4 percent

SOURCE: City of Pacifica. 1994. Wastewater Facilities Plan Draft EIR.

The nutrients in reclaimed wastewater therefore supply the great majority of the nitrogen requirements of the fairways, which constitute 94% of the total area of the golf

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course. While the tees and greens require a much higher level of fertilization, together they constitute only 7% of the total acreage. Therefore, the use of reclaimed water would meet the great majority of the fertilization requirements on the golf course. The phosphorus in reclaimed wastewater is nearly five times what is needed for the fairways, but this application will not contaminate ground or surface water because organic forms of phosphate and orthophosphate found in wastewater do not contaminate groundwater and orthophosphate is readily adsorbed to surface soils¹. The nitrogen applied will not degrade groundwater either as long as the levels are computed to be less than or equal to the amount of nitrogen the particular golf course component requires. In the case of Pacifica, monitoring of the water quality of two lagoons downslope of the golf course drainage showed that golf course fertilization with artificially applied fertilizer was having only a minimal effect on the lagoons because of the controlled application rates.

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In the case of the Cowell Ranch project, the irrigation requirement for the parks and golf course (543 acf/y, as given in the EIR (Table 39)), if applied during the 9 months of the year when there is a rainfall deficit, would be about 364,000 gpd or similar to the case studied for Pacifica. Therefore, similar amounts of fertilizer value could be expected, and groundwater contamination would be minimal. The Draft EIR should contain a full discussion of the possibility of using reclaimed water for fertilizer.

A source should be given for the statement that average evapotranspiration in the project area is approximately 48 inches per year (p. IV.E-1). If this estimate of evapotranspiration is too low, then the amount of water the project will require for irrigation has been underestimated and the project will have a greater impact than was stated.

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F. PUBLIC FACILITIES AND SERVICES

1. Impact PF-1: Treated Water Supply: (p. II-28 and IV.F-20): An adequate supply of water to serve the potable water demands of the project has not been identified. The measures identified in Mitigation PF-1 are not assured, and may not be feasible. Owing to the numerous institutional problems with obtaining a long-term water supply of the magnitude required by this large a project, it is likely that no sufficient source(s) will be found and that the impact is significant and unavoidable. There is no basis for the EIR to conclude that the lack of water supply has been mitigated to a less-than-significant level.

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From the Contra Costa Water District response letter (Gregory Gartrell to James Cutler, dated December 2, 1996), it is not clear that, as stated in the EIR "the ECCID's existing rights to water from the Delta and existing water system capacity are sufficient to meet the project water demand." Further, the CCWD disputed that Brentwood's purchase of 7,000 acre-feet of water from CCWD's entitlement from ECCID will be sufficient to meet the future demands of both the Cowell Ranch project and the City, or

¹Walker, W.J. and B. Branham. 1992. "Environmental Impacts of Turfgrass Irrigation" in J.C. Balogh and W.J. Walker, eds. Golf Course Management and Construction: Environmental Issues. Lewis Publishers, Boca Raton, FL.

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that a sufficient source of water for Cowell Ranch had been identified. In addition, the CCWD pointed out that the Los Vaqueros project, which the EIR stated (p. IV.F-25) as "improving CCWD's overall water supply" is irrelevant to the Cowell Ranch project since the Los Vaqueros planning area does not include the Cowell Ranch site, and Los Vaqueros reservoir provides only emergency storage and not additional supply for drought periods. (p. II-28).

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According the Draft EIR the proposed golf course, parks and landscaping would require 547 acre-feet of water per year. The Draft EIR stated (p. IV.F-23) that the raw water supply would either come from East Contra Costa Irrigation District (ECCID) or the Byron-Bethany Irrigation District (BBID). Use of either source of water would require a change in the respective Sphere of Influence boundary and annexation, both of which would have to be approved by LAFCO as well as by the California Department of Water Resources (DWR). Neither of these approvals are guaranteed. In addition, owing to the uncertainty in long-term water supplies from all sources (see CCWD letter), the overall shortage of water in relation to growth, and the propensity of the area to droughts, landscaping should not use imported raw water, but be required, as a condition of project approval, to be irrigated with reclaimed water. Future wastewater treatment should all be mandatorily required to meet a Title 22² standard which permits unlimited reclamation and re-use. Fully disinfected and clarified effluent which meets Title 22 standards may be used on golf courses, parks and for landscaping around individual residences without restriction.

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A reclaimed water pipeline would have to be constructed between the plant and the project site (note: this is a condition of P-1 subdivisions). The line connecting the wastewater plant with the project should be built regardless of whether the project wastewater were treated at a municipal plant (Brentwood or ISD) or at an onsite plant. However, if an independent onsite plant were constructed, it would probably be easier to guarantee that the water would be treated to the appropriate level of treatment to provide for all landscape irrigation. Condition 73-A states that the developer shall provide installation of dual main lines to allow for the use of reclaimed water for irrigation of common outdoor landscaping, recreation areas, in addition to front yard landscape for private residences. Condition 73-B states that recycled water shall be required, where feasible, for irrigation of open space areas (i.e. golf courses, parks, water features, school playing fields, and median strips)... as well as... private lot landscaping, where feasible. The Draft EIR should state what is feasible. -

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2. Impact PF-6: Wastewater Treatment Capacity Impacts: (p. II-29 and IV.F-41). Neither of the options mentioned as mitigation for wastewater impacts is not mitigation unless the option is described in detail.

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The Draft EIR (pp. IV.F-31 through IV.F-32) addresses alternatives for treating the wastewater the Cowell Ranch project would generate. The alternatives described, which reflect the study prepared for the City of Brentwood by Carollo Engineers (October 1996), include treatment of all flows from the Brentwood area at the

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California Administrative Code, Title 22, Division 4, Environmental Health: Wastewater Reclamation Criteria.

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Ironhouse Sanitary District (ISD) plant, treatment of partial flows at the Brentwood plant and part at ISD, all treatment at the Brentwood plant and all export to ISD.

The project alone represents (at buildout) 1.8 mgd (average dry weather flow) of wastewater which would double the Brentwood flow from 1.8 to 3.6 mgd. The flow from the Cowell Ranch development is more than could be accommodated by the interim facilities at Brentwood which would expand Brentwood's capacity from 1.8 to 3.2 mgd, and would require a long-range solution (p. IV.F-31 of the Draft EIR). The description of alternatives is at a conceptual level only at this point. A preferred alternative has not been selected. The long-term expansion projects are major projects that require environmental review. All facets of the plant expansion would need to be covered in this EIR, including any environmental impacts of the expansion on the plant's environment (e.g. odor, noise, public safety risk from chlorine, sludge disposal etc.) It appears that no environmental review of the alternatives has been conducted to date. Therefore, an alternative could not be selected at this time. Thus, there is no assurance that sewage capacity can and will be developed in time to serve Cowell Ranch. There is no basis for the EIR to conclude that this impact will be mitigated to insignificance.

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All of the alternatives studies by Carollo have a capital cost between \$56 million and \$70 million (Table 3 of the Evaluation of Wastewater Treatment and Disposal Alternatives). It is not clear how Brentwood would allocate these costs over all new development, including the Cowell Ranch project. Assuming that Cowell Ranch would be responsible for paying a *pro rata* share of the cost of increasing capacity from 1.8 mgd up to 10 mgd (8.2 mgd increase), the project's share of the cost $1.8/8.2 = 22\%$ would be \$13.4 to \$15.4 million. The EIR needs to address how these costs could be allocated, how they would affect the ability of the project to provide affordable housing, and when the project would be constructed.

The need for an assessment of the environmental impacts of wastewater treatment to serve the project is also relevant to the statement in the EIR (p. IV-F-42) that if the project is not annexed to the City of Brentwood then an adequate and reliable onsite wastewater treatment and disposal system must be established onsite. If an onsite alternative were necessary, this would require enough design detail to fully evaluate its environmental impacts. If the feasibility of the project as a whole is dependent upon the provision of an onsite plant, then the onsite plant becomes an integral part of the project, and its impacts must be considered. In order to approve a project with an onsite plant, all the impacts of that plant and their mitigation must be assessed in the Master EIR. Otherwise, the wastewater plant will have the potential to contaminate ground or surface water, produce objectionable odors and public health and safety impacts. In addition, there may be no feasible way for the plant to dispose of its sludge. The impacts of building an operating an onsite plant include:

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- wastewater treatment plant site, any storage lake and spray disposal areas should be considered part of the project, not "offsite".
- location of the plant (upwind or downwind) of the project, and adequacy of separation from the development.
- proposed means to control odor production (covering of structures, use of scrubbers etc.).

- the proposed design of the onsite wastewater treatment system (e.g. oxidation ponds versus a sequential batch reactor (SBR) or other type of structural treatment plant), including equalization storage, contingency plans for upset, emergency storage, and reprocessing.
- proposed method of disinfection (e.g. chlorine gas, liquid chlorine, ozone, UV light) and potential hazards to the public from the method chosen.
- volume and characteristics of sludge.
- proposed means of disposal.

Because of the need to store wastewater in the winter when irrigation is not need, the wastewater storage issues, which must be addressed in the EIR analysis, include:

- sizing of lake in relation to volume of effluent produced.
- effect of nutrients in the effluent on odor production, growth of algae and mosquitoes.
- means available to abate the problems associated with typical tertiary effluent which contains 8 to 10 mg/l of nitrogen. This is 4 to 8 times the level known to cause water quality problems when held in a lagoon;
- public safety impacts of the pond and how to protect the public from health-related impacts and drowning.
- impacts to groundwater of an unlined lake, if proposed.

3. Impact PF-8: Brentwood Police Department Service Demand Impacts: (p. II-30 and IV.F-48). The proposed mitigation in the Draft EIR is that the project prepare a Public Services and Facilities Plan which would specify funding for and phasing of the police protection services and facilities needed. Such a Plan cannot be deferred because it must be determined to be (1) adequate and (2) feasible in terms of the measures which the applicant commits to funding, and the timing of the measures (such as an onsite police station.) In addition, the effect of the cost of funding the needed police services must be integrated into an overall fiscal assessment of the project mitigation and development costs to determine whether this will undermine the affordable housing objectives of the project.

4. Impact PF-16: Regional Park Impacts: (p. II-33 and IV.F-69). The measure, as proposed would make all or a substantial portion of the proposed 3,008 acres of permanent open space available for a public agency or open space conservation entity. Whether this could be used to serve park purposes is questionable because if these areas were actively used as public parkland (allowing hikers, vehicles etc.) this could seriously conflict with their protection as special status species habitat (e.g. for kit fox and burrowing owls, pools and stock ponds for fairy shrimp etc.). If the open space were generally available for public use, then the wildlife habitat would be subjected to intrusion by humans and domestic pets, trampling of vegetation, hunting, collection, vandalism and litter. The Draft EIR must address these issues.

5. Impact PF-18: Project Impacts on the BUSD Capacity and Impact PF-19: Phasing of Onsite Residential and School Construction and Impact PF-20: Cumulative Capacity Impacts on the BUSD. (p. II-34 and II-35 and IV.F-78). The mitigation as stated in the Draft EIR is insufficient, as discussed below.

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a) School Child Generation was Underestimated.

As the Liberty Union High School District letter (December 11, 1996) pointed out, the housing category "Multiple Family Low" included a portion of single-family detached housing that should have used the single family school child generation factor to calculate the number of school children contributed to the school district, rather than the "multiple family" factor. Table 50 (p. IV.F-79) should be revised to show a school child generation as shown in the following table, which extends the calculation in the school district letter to all three levels of school-age children.

	GRADE LEVEL/Students Generated		
	Elem (K-5)	Middle (6-8)	High (9-12)
Single Family -- Generation Factor	.35 students/unit	.15/unit	.19/unit
2007 units*	702	301	381
Multiple Family -- Generation Factor	.18 students/unit	.08/unit	.09/unit
2526 units	455	202	227
Totals	1157	503	608

SOURCE: See Table 50 of the Draft EIR and Liberty Union High School District comment letter.

* The school district estimated that 20% of the "Multiple Family Low" category were actually single-family detached houses that should use a higher school-child generation figure. The 930 units of senior housing are not included in these units, because they are not assumed to generate any school children.

Thus, the EIR underestimated the project student yield by about 4 percent. The calculations of facilities needs for the project need to be redone based on the corrected values for student yield.

b) Project Approval should be Conditioned on Applicant's Commitment to Full Mitigation in the form of fully-executed Mitigation Agreements with each School District

The Liberty Union High School District also commented correctly that the requirement for a future school financing and cost distribution plan is non-specific (and therefore, inadequate) mitigation. In particular, it does not guarantee that the applicant will provide a level of financing that will fully mitigate the project's impacts to the school districts. The High School District has already provided a Mitigation Agreement suitable for this development which meets County requirements, and, in the District's view, would fully mitigate the impacts. Therefore, the mitigation should be changed to require the project proponent to fully execute mitigation agreements with each of the relevant school districts before the General Plan Amendment can be approved.

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- c) An on-site high school is necessary and should be provided.

The Liberty Union High School District commented that the project area will generate enough students internally to justify the need for another high school within the Cowell Ranch property. Prior to the release of the Draft EIR, plans for the Cowell Ranch development had included a high school, but it has been deleted. There is no other high school or designated site which would meet this need. Since a future, unknown site cannot be determined *a priori* to meet state facility site selection standards and would require its own environmental review, the feasibility of a high school to serve the project's students has not been demonstrated, no high school exists to serve them, and there is no basis for concluding that the impact on the District has been mitigated.

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- d) Construction of a middle school is inappropriately deferred.

The Draft EIR states (p. IV.F-83) that "Table 50 indicates that by 2010 there would be an estimated 201 middle school students onsite, but as indicated in Table 51 no middle school would be provided onsite by 2010." The mitigation proposed to remedy this situation is the provision of a school phasing and cost distribution plan prior to the recording of each final map. This proposed mitigation is vague and makes no commitment to providing the middle school at the time it is needed. Moreover, Table 49 (p. IV.F-72) shows that there is no remaining middle school capacity in the Brentwood Union School District and that the District is already over capacity by 116 students. Therefore, the first middle school student to be generated by the project will need a school. Since a new middle school will be needed by the time the first phase of the project is built, deferral of the mitigation to a future phasing plan does not provide adequate mitigation. Instead, the project proponent should be required to participate immediately in a Mitigation Agreement with the Brentwood Union School District that would establish the funding for a new middle school that will accommodate the early phase project students.

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- e) The EIR did not discuss impacts to the Contra Costa Community College District and their Mitigation

The Draft EIR (p. IV.F-73) described the existing community colleges operated by the CCCCDC, and stated that the CCCCDC was projecting steady increases in enrollment and the need for a second community college in the East County area in the future. The project description includes a community college, but the EIR contains no analysis of potential future enrollment at this college which the project would generate, nor when the community college would be developed to meet this need. An analysis of the community college impacts should be included along the same lines as the analysis was done for school facilities impacts in K-12.

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Solid Waste

1. The EIR conclusion regarding mitigation for landfill capacity impacts is not justified.

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The EIR concludes (p. IV.F-97) that no significant impacts on landfill capacity

have been identified and therefore no mitigation is required. On the other hand, the EIR states that the project, as shown in Table 54, could be expected to generate approximately 9,400 tons to 10,600 tons of solid waste per year at buildout. The Draft EIR should discuss the impact of the project on the County's goals for source reduction and recycling. In view of limitations on landfill capacity, the difficulty of permitting new landfills, and the County Integrated Waste Management Plan and Source Reduction Recycling Element, the EIR should contain a list of mitigation measures that would apply to Cowell Ranch that would help Cowell Ranch participate in meeting the County's overall goals for source reduction and recycling.

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G. BIOLOGICAL RESOURCES

1. The conclusion regarding cumulative biological impacts to biologically sensitive resources is not justified.

The Draft EIR states (p. IV.G.-59) that "because ... the more sensitive lands in the project vicinity are protected by County's Urban Limit Line regulations, the cumulative impact of the project is considered to represent a less-than-significant impact". This conclusion is not justified because, if approved, this project would itself modify the County's Urban Limit Line (ULL). Furthermore, the Draft EIR acknowledges that this project could set a precedent for allowing other adjustments to the ULL (Draft EIR, p. IV.B-26). Even if the net acreage within and outside the ULL is not changing by more than a few acres, it is the configuration of the lands outside the urban limit that determine their overall habitat value, including whether the urban development pattern causes fragmentation of nearby habitat, or destroys biologically valuable habitat. The intent of the ULL is to protect valuable habitat. The fact that the County would allow an ULL adjustment for this project implies that the ULL will ultimately fail to protect habitat, since it can be too easily revised. Therefore the cumulative impact of the project is not reduced to less-than-significant.

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2. Impact BR-2: Loss of Blue Oak Woodland: (p. II-38 and IV.G-36). There is no basis for the EIR to conclude the impacts are less than significant because mature trees are being replaced with seedlings which take many years to mature and whose survival is not assured. Mature trees provide far more wildlife value as cover, shade, food, perch and nest sites than seedlings or young trees so there would be a substantial period of time (e.g. 30 or more years) before the values lost were potentially replaced. This suggests that the impacts would not be completely mitigated to below a threshold of significance.

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3. Impact BR-3: Reduction of Habitat Quality of Great Valley Mixed Riparian Forest: p. II-39 and IV.G.36). Bank stabilization with riparian shrubs may not be feasible if it interferes with flood capacity. Engineering design of flood channels usually involves clearing most of the vegetation in the designated floodway because the vegetation increases the surface roughness and may impede the channel's capacity to move water during a flood. The proposal to stabilize the bank with riparian shrubs is sound from a biological perspective but the EIR needs to address whether this will interfere with engineering flood control objectives, and therefore be considered infeasible by the County Flood Control District or the COE.

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4. Impact BR-4: Loss of Jurisdictional Waters: (p. II-39 and IV.G-37). The mitigation for the loss of 28.5 acres of jurisdictional waters and wetlands is highly speculative since it is based on the adoption of a Habitat Management Plan which is itself incomplete. The HMP leaves most of the specifics of wetland mitigation to the future, and so does not justify the conclusion that the implementation of Mitigation BR-4 would mitigate the impacts on wetlands to less-than-significant. In particular, p. IV.G-41 of the Draft EIR states:

"The goals of the HMP for each kind of wetland mitigation shall be clearly defined [i.e. in the future]. The attributes and ecological functions of each kind of wetland habitat to be affected by the project shall be identified. At a minimum, replacement wetlands shall be constructed that mimic the wetlands to be destroyed"

"Measurable performance standards shall be incorporated for each kind of wetland mitigation. These performance standards shall include empirical measures of soil saturation and/or surface ponding during the winter and spring, plant and animal diversity, plant cover etc. The physical and biotic attributes of existing onsite wetlands shall be determined by means of a thorough study so that they function as the existing wetlands do."

The goals of the HMP, functions that would be impacted, and performance standards to demonstrate that the functions and values of the wetlands lost have been re-created must be determined before approval to fill the existing wetlands is granted.

"All replacement wetlands shall be located in areas where the soils and surface and subsurface hydrology are suitable for naturally functioning wetlands of the types to be created."
(Draft EIR p. IV.G-41).

Unless such areas can be identified during the EIR process and prior to the approval of the project, It is not clear that such areas actually exist.

5. Mitigation BR-9: Impacts on Vernal Pool Fairy Shrimp and Longhorn Fairy Shrimp (p. II-42 and IV.G-51). Mitigation BR-9 addresses the 0.3 acres in six seasonal wetlands where vernal pool fairy shrimp, a federally listed threatened species, occurs on the project site (p. IV.G-51). In addition, "an unknown amount of additional wetland habitat to be developed also provides potential habitat for vernal pool fairy shrimp and longhorn fairy shrimp" (p. IV.G-51 and IV.G-52). Mitigation BR-9 involves conducting additional surveys for both species of shrimp to assess impacts and replace occupied habitat at a 2:1 ratio.

There are several flaws in this mitigation: (1) If there is suitable habitat for fairy shrimp in most of the seasonal wetlands on the site, then it is not clear why the shrimp were only in the 0.3 acres of seasonal wetlands where they were collected. These wetlands may be unique in some way; (2) If the amount of additional habitat inhabited

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by the shrimp species is unknown, then it cannot be determined *a priori* that it is possible to recreate such habitats at a 2:1 or even a 1:1 ratio since it is not known if there are enough sites that adequately reproduce the conditions needed by the fairy shrimp; (3) The re-creation of pools for fairy shrimp has not been endorsed by the USFWS.

The USFWS is strongly on record that re-creation of fairy shrimp habitat is considered experimental, unproven and is to be disfavored in comparison to preservation of existing habitat. In deciding to list the several species of fairy shrimp, the USFWS (50 CFR, Part 17, 59 Federal Register, 9/19/94)³ made the following statements:

"Eight biologists specializing in crustaceans or plants inhabiting vernal pools stated that these habitats are an intricate ecosystem and efforts to recreate them likely will not be successful until they are more fully understood. Furthermore, six fairy shrimp specialists concluded that the protection of these animals is best assured via the preservation of extant habitat and its associated community.

For example, the same listing document described what was known about the habitat requirements of the vernal pool fairy shrimp, namely, that it occurs in pools that have low total dissolved solids (TDS), conductivity, alkalinity, and chloride, and that the species only rarely co-occurs with other fairy shrimp species. However, the precise ranges of these variables, and the interaction between factors that are necessary for the long-term survival of the vernal pool fairy shrimp are not well understood.

"In a review of 21 vernal pool creation projects dispersed throughout California, Ferren and Gervitz (1990) concluded no conclusive data exist to substantiate the hypothesis 'that vernal pools can be restored or created to provide functional values within the range of variability of natural pools'. Though some individuals (Sugnet and Associates et al. 1992) have claimed complete or some degree of success, these conclusions generally are based on anecdotal unscientific studies and the persistence of fairy shrimp after only a short period of time, e.g. three years or less."

"In a study on the preservation and management of vernal pools (Jones and Stokes Associates, 1990), the researchers concluded that the 'science of vernal pool creation is still in its infancy and is primarily an experimental mitigation technique.' Environmental requirements, not dispersal, are

³ "Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Conservancy Fairy Shrimp, Longhorn Fairy Shrimp, and the Vernal Pool Tadpole Shrimp; and Threatened Status for the Vernal Pool Fairy Shrimp"; Final Rule. Department of the Interior, Fish and Wildlife Service; 50 CFR Part 17 (Federal Register 9/19/94).

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likely the limiting factors in the distribution of the fairy shrimp and the vernal pool tadpole shrimp...The four species in this final rule require unknown, but more restrictive environmental conditions than the more widely distributed taxa (citations given). There are no demonstrated proven long-term populations of the fairy shrimp or the vernal pool tadpole shrimp in artificial habitats."

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In view of the current lack of understanding of the requirements to successfully recreate vernal pool habitat and the position of the USFWS, there is no basis to conclude that the 11 seasonal pools totaling 0.2 acres can be mitigated.

5. Impact BR-6: Loss of San Joaquin Spearscale and Big Tarplant

Populations: (p. II-40 and IV.G-43). The mitigation in the Draft EIR is to relocate the affected plant population to a suitable area, if feasible. This mitigation is probably ineffective because these rare plants are already restricted to certain microhabitats on the property; no other locations probably offer suitable habitat for these plants. For example, the spearscale occurs on highly alkaline soils in habitats such as alkali scrub and alkali meadow (HMP, p. 20). The tarplant always grows on mid-slope in clayey soils above the band of gumweed (*Grindelia camporum*) which is associated with dry stream beds in late summer and fall (HMP, p. 23).

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It is not at all clear that suitable relocation sites are available that would support populations equal to those lost. The Draft HMP mentions that three known populations of Spearscale will be avoided with the development, and if it cannot be avoided, the fourth will be replaced at a site in the Briones Valley. The HMP states that establishment methods are discussed in Chapter 7, but Chapter 7 discusses implementation at a generic or institutional level, and not at the level that shows that it is known to be possible to establish a Spearscale population at the designated site. The Draft EIR must explain what physical and biotic conditions exist at the replacement site (i.e. highly alkaline soils) to give reasonable certainty that the population will re-establish here or it cannot be concluded that the impact has been mitigated.

6. Impact BR-8: Impacts on San Joaquin kit fox: (p. II-41 and IV.G-47). The HMP does not fully mitigate the following impacts on kit fox, and a Section 7/10(a) Consultation would probably result in a jeopardy opinion for the following five reasons listed below: therefore there is no basis for concluding that the impact can be mitigated.

(1) the project would result in the irretrievable loss of 1300 acres of kit fox habitat. The preservation of 3000 acres of open space does not compensate for the habitat loss since the 3000 acres of open space already exist. In the case of the Los Vaqueros Reservoir, the Final EIR included as mitigation the acquisition of a very large contiguous area -- 11,050 acres -- of suitable kit fox habitat within the surrounding watershed, to meet a 3:1 replacement ratio for habitat lost, and an enhancement program which included artificial dens and grazing management to benefit prey populations. (P. 8-42 Final Stage 2 EIR/EIS for the Los Vaqueros Project, September 27, 1993). Similar mitigation should be considered here.

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(2) the site appears to have a low ground squirrel population (see discussion of

Measure BR-12 below). Ground squirrels are the principal prey item of the kit fox in the northern portion of its range (Orloff and Spiegel, 1986). As part of mitigation for kit fox impacts, a requirement could be a grazing management strategy that is aimed at improving the ground squirrel population in the mitigation area, but this is problematical, as discussed under (5) below.

- (3) the project would substantially increase mortality to kit fox due to collisions with vehicles on roadways. In the absence of any feasible way to prevent this impact, there is no basis for concluding that the impact can be mitigated. Automobile mortality is the largest reported source of kit fox mortality, and is increased wherever the kit fox is placed in closer proximity to urban development and a greater number of roads (San Joaquin Kit Fox Recovery Plan, 1983).
- (4) the project has no east-west migration corridors for kit fox that provide continuity with the habitat to the east, and the project would force kit fox to migrate north-south to access other adjoining habitat lands; therefore, the project results in irreversible fragmentation of kit fox habitat. Habitat fragmentation is well known through numerous studies in conservation biology to contribute to the decline of many species. Habitat fragmentation is one of the greatest threats to biodiversity worldwide (Burgess and Sharpe 1981, Noss 1983, 1987a, Harris 1984, Wilcox and Murphy 1985). Fragmentation is often considered to have two components: (1) decrease in some habitat type or perhaps all natural habitat in a landscape; and (2) apportionment of the remaining habitat into smaller, more isolated pieces (Wilcove et al. 1986). Although the latter component is fragmentation *per se*, it usually occurs with deforestation or other massive habitat reduction (Harris 1984). The patchwork of smaller, isolated areas which results may not function as long-term suitable habitat for the species. Therefore, dedication of a very large preserve area which maintains migration corridor continuity with surrounding areas should be considered.
- (5) the creation of artificial denning habitat would not mitigate kit fox impacts because denning habitat is not what is limiting the kit fox here or elsewhere in its range. The San Joaquin kit fox is a species that exists at a low density over a very large range. The densities cited in the Recovery Plan range from 1 fox per square mile (640 acres) to 1 fox to 2.8 square miles (1,792 acres). Such species require very large areas to guarantee survival of a viable population of at least several thousand animals. As noted by Frederickson and Laubhan (1994, p. 59), "clearly species with large home ranges have very few areas of suitable size for survival." Thus, habitat area and fragmentation are more limiting to the species than denning sites. In addition, the species may be limited by predation and competition from other larger carnivores such as coyote, red fox, and domestic dogs (Life on the Edge (1994)). A recent study by the California Energy Commission (Spiegel and Disney, 1996) found that in the oil fields of Kern County predation accounted for 89% of all known kit fox deaths, with the greatest predation by domestic dogs, coyotes and bobcats.

This means that attempts to increase the prey base for kit fox by stimulating ground squirrel populations on the Cowell mitigation lands may backfire if this in fact causes an increase in these other predator species which prey on and compete with the kit fox. This may result in greater predation pressure on the kit

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fox. An additional mitigation included in the Los Vaqueros project was the installation of fencing along Vasco Road that allows kit fox passage, but excludes passage by coyotes and large dogs (p. 8-43, Los Vaqueros Final EIR/EIS). Similar mitigation must be considered here.

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7. Impact BR-10: Impacts on California Tiger Salamander: (p. II-42 and IV.G-53). The proposed mitigation for the tiger salamander impacts appears to be completely inadequate. The project would result in the loss of 4.05 acres of aquatic breeding habitat of the California tiger salamander and 1,029 acres of aestivation habitat. The HMP indicates (p. 65) that fourteen stock ponds will be created and stocked with invertebrate and vertebrate food for the salamander larvae, which will be transferred afterward. The Draft EIR provides no map showing the locations or configuration of the ponds to be removed in relation to the ponds to be created. From Figure 54 (Project Site Wetlands, p. IV.G-6) and Figure 56 (p. IV.G-20) (which incidentally contain no scale bar), which shows the locations of adults and larval salamanders observed, it appears that there are 13 ponds to be removed which are widely scattered throughout the developed portions of the site. The existing ponds range from 760 to 2800 feet apart. This is consistent with the known ecology of the species which requires a 1/4 to 1/2 mile radius of aestivation habitat *around each pond*. (M. Allaback, *pers. comm.*) A quarter mile radius around each pond would include 125 acres of habitat and a half-mile radius would include 500 acres of habitat. The EIR provides no information to show that the ponds would be spaced appropriately to meet the species needs rather than being clustered to meet the convenience of the developer. Unless the new ponds are appropriately configured, there will be no compensation for the loss of the 1,029 acres of aestivation habitat caused by the project, without which the breeding habitat will not be successful. The proposed mitigation is inadequate and there is no basis for the EIR to conclude that the impacts will be mitigated.

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While general monitoring is discussed (p. 72), specific provisions to monitor the success of establishment in the stock ponds are not stated. Neither is it stated that the 14 stock ponds will equal or exceed the amount of breeding habitat lost. Performance standards for establishment of tiger salamander in the mitigation ponds should be stated. In addition, contingent measures should be listed should the initial introductions not be successful.

8. Impact BR-12: Disturbance of Active Raptor Nests from Construction Activities: (p. II-43 and IV.G-57). Pre-construction surveys, and avoidance of the nesting season may mitigate short-term impacts to burrowing owl. But long-term impacts of loss of habitat will not be mitigated. The Habitat Management Plan (p. 36) that most of the site provides suitable habitat for burrowing owls. There is also the contradiction between the information in Table 56 (p. IV.G-15) which states that ground squirrel burrows are abundant throughout much of the study area, and the text of the supporting document (Biological Resources, Cowell Ranch (LSA, November 1, 1993) (p. 36, last para.) where it states that the site contains very few burrows large enough for burrowing owls and p. 42 (next to last para.) where it states that "the site contains very few potential burrows due to the very low ground squirrel population". If the site is deficient in ground squirrels due to a prior ground squirrel eradication program, then the EIR should explain this, as well as state reasons why a ground squirrel eradication

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program was necessary in the past.

The permanent loss of habitat will not be mitigated. The Draft EIR also fails completely to discuss the mechanics of burrowing owl relocation or the CDFG Guidelines⁴ that must be followed before it can be successful. The CDFG guidelines specify the distance between old and newly created burrows, the amount of habitat around each burrow, a 2:1 replacement ratio for burrows, and the technique of passive relocation of burrowing owls. The Draft EIR mitigation for burrowing owl does not reflect any of these currently adopted CDFG guidelines.

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The CDFG Guidelines require 6.5 acres of suitable habitat of low, open vegetation for each breeding pair or unpaired resident bird, calculated on a 300-foot foraging radius around each burrow. The new burrows must be located within 300 feet of an existing burrow or else the owls will not re-establish a nest site.⁵ The Draft EIR does not state the distance between the burrows to be closed and the new burrows, and there is no indication that the project will allow for new burrows to be established within the 300-foot radius of existing burrows. Also, since a pair of owls will use more than one burrow, the CDFG guidelines for replacement is two burrows created for every one closed. Passive relocation involves a one-way trap door so that owls leaving a burrow cannot re-enter and must find a new burrow nearby.

H. MINERAL RESOURCES

1. **Impact MR-1: Project Preclusion of Significant Mineral Resources:** (p. II-44 and IV.H-5). As mitigation for residential development on a portion of a "significant mineral resource area", the Draft EIR proposes that development be phased to permit mining and to preclude development in certain planning areas until the resource had been mined. However, Impact MR-2 (p. II-44 and IV.H-6) indicates that residential development adjacent to a mined area would be incompatible with the mining activities, also suggesting phasing as a mitigation. The Draft EIR is deficient in requiring mining as mitigation for loss of a potentially significant mineral resource area, but not addressing the impacts of the mining.

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In particular, the EIR needs to assess what types of impacts are expected from sand mining, including air quality (PM10), health and safety (crystalline silica, asbestos (if relevant)), noise and transportation (haul trucks). The EIR must identify who the receptors would be, what the magnitude and significance of the impacts would be, and whether the impacts could be mitigated. The Draft EIR states that development should be excluded from Planning Areas 39, 40, 42, 45, 49, and 50 which are south and west of the mineral deposit, but Planning Area 46, which is slated for multi-family, low-density development (ML) is probably downwind of the mining area given the prevailing wind direction. The EIR does not allow a definitive determination of what areas are downwind, since no wind rose is included in the Air Quality section. The EIR needs to

⁴ California Department of Fish and Game. 1995. Staff Report on Burrowing Owl Mitigation. Environmental Services Division.

⁵ Trulio, Lynne A. (1995). "Passive relocation: a method to preserve burrowing owls on disturbed sites". *J. Field Ornithology*, 66(1) 99-106.

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do a thorough analysis of the effects of climatic and weather patterns on how receptor areas could be affected by PM10 and air-borne minerals. In the absence of this information, the EIR is inadequate.

In stating that the project should be phased to allow extraction of the mineral resource, the EIR does not address the actual implications of such phasing on the overall project. In particular, the entire area of E-III which contains both residential and commercial/office components is supposed to be built in the project's first phase (between 2001 and 2010), but would have to be deferred almost indefinitely to make mining economically viable. In particular, the EIR states (p. IV.H-3) that the Domengine sandstone deposit on the project site contains 3 million net tons of quartz sandstone down to the level of the valley floor and 7 million net tons down to sea level. A realistic economic rate of removal of the resource, which would justify the capital investment to initiate mining, based on a similar project⁶, would be 300,000 tons per year. At this rate, it would take 10 years to mine the area down to the valley floor and more than 20 years to fully extract the resource. This would delay the development on E-III for as much as 20 years or more. Before considering mining to be a valid option, the effect on overall infrastructure phasing and the viability of the overall project needs to be addressed in the EIR.

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I. CULTURAL RESOURCES

1. The mitigations listed in the Draft EIR for Impacts CR-1 through CR-6 are deferrals to future studies and unspecific.

The project site contains a number of documented pre-historic and historic sites of statewide or nationwide significance. In many instances, the boundaries of buried sites are not completely determined so it is not possible to know whether avoidance of the sites is feasible. The blanket mitigation suggested in the EIR is "avoidance if possible, and if not feasible, develop and implement an appropriate mitigation program (in some cases in coordination with the California Department of Parks and Recreation.)" This deferral of mitigation is not mitigation. While cultural resource values and impacts are generally assessed on a case-by-case basis at the time of grading by having a qualified archaeologist on site, the EIR needs to be much more specific in specifying the *process* the applicant would have to go through to assure that these impacts were, in fact, mitigated. The EIR needs to spell out the mitigation process as detailed in the appropriate federal and state statutes to be sure that it will be followed.

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J. VISUAL RESOURCES

1. **Impact V-2, V-3, V-7: various view impacts** (p. II-46, II-48, and Section IV.J). The Draft EIR concludes that these impacts would be mitigated to less than significant if the PUD Development standards proposed for the project are amended to include hillside development standards, reduction in development intensity, grading limitations on steep slopes, contour grading, revegetation, and sensitive landscaping. However,

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⁶EIR for the Quail Hollow Quarry, San Benito County, CA (1994)

there is no guarantee that such measures will be implemented, since they are to be imposed on a case-by-case basis in the future. In addition, if such measures could substantially alter the densities or number of units possible for the project, they will most likely not be implemented. Therefore, the conclusion that these impacts will be mitigated to less-than-significant is not justified.

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L. NOISE

1. Impact N-8: Aircraft Noise: (p. II-54 and IV.L-28). The Draft EIR found that a portion of the project site would be subjected to single event noise in excess of 85 dB (SEL) from aircraft flyovers. The recommended mitigation is acoustical studies for affected buildings and disclosure of the noise impacts to prospective buyers and renters. Contrary to the conclusion in the EIR, these measures would *not* mitigate the impacts to less-than-significant levels. This is not a commitment on the part of the applicant to add the additional noise insulating measures to structures to reduce aircraft noise, nor is there a guarantee that such insulation would be entirely effective. Disclosure of noise levels to buyers is not mitigation since it does not remove the impact. In addition, no mitigation is provided for the elementary school which is also in the zone of maximum aircraft noise. A more appropriate mitigation would be to preclude development of residential or other sensitive (e.g. school) uses in the area subject to high aircraft noise levels unless it can be proven that the installation of sound-dampening insulation would reduce interior noise levels to below community noise standards. The Draft EIR must discuss such mitigation measures.

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The EIR mentioned that high noise levels are intermittent, and do not affect the entire 24-hour period (p. IV.L-27). The Draft EIR (p. IV.L-12) indicates that the airport intends to expand its operations from the current level of 210,000 annual operations up to 250,000 annual operations (year unstated). The noise from such operations levels can hardly be considered intermittent as 210,000 operations per year is 575/day (or 32 per hour in an 18-hour period), and 250,000/year is 685/day or 38 per hour in an 18-hour operating day. It is not clear whether the projected noise contours shown for the year 2025 include the assumption of expanded activities at the airport. If not, then these contours need to be revised.

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The aviation easement to be granted to Contra Costa County (Mitigation N-9, p. IV.L-32) does not mitigate the impact on residents; it only allows the airport to operate without giving project residents the right to seek legal action against the airport for airport operations related impacts. True mitigation would preclude any noise sensitive land uses (residences, schools) from being located within the zone of high aircraft noise impacts. Such a zone may extend beyond the boundaries of the SEL 85 dB zone shown in the Draft EIR (Figure 79, p. IV.L-30)..

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2. Impact N-11: Impacts from Kellogg Creek Sand Quarry: (p. II-59 and IV.L-33). The mitigation measures listed for noise impacts of quarry operations include increased setbacks, creation of a berm, and a disclosure statement to future home buyers. The Draft EIR does not provide enough information to conclude, as the EIR does, that these measures would mitigate the impacts to less than significant, and disclosure of an impact is not mitigation. Additional mitigation for noise impacts that should be included in the EIR are a restriction of the hours of operation of the quarry to

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daytime hours when the resident population is less sensitive. In addition, the haul routes of trucks passing residences should be restricted to those which would not impact residences, and to those hours when residents are less sensitive to noise.

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In addition to noise impacts, the EIR should also address other potential impacts of the Kellogg Creek Quarry operation on residents -- air emissions (dust, PM10) and health risks (e.g. from crystalline silica and asbestos).

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3. Impact N-12: Impacts from Sand Hill Ranch Motorcross Park: (p. II- and IV.L-34) The EIR mentions that existing residents in the area have lodged complaints with the County regarding noise from the motorcross park. While the EIR does not state the distance of the residents from this facility, an examination of a current aerial photograph of the site and vicinity shows that there is one residence located within 1000 feet of the edge of the Motorcross Park and two more within 2000 feet, all within the corridor of Walnut Boulevard. The EIR does not discuss the noise levels to which these residents are subjected, nor what the noise levels would be at future Cowell Ranch residences. However, based on typical noise levels measured at such facilities in other locations, it is likely that the setback buffer from the motorcross park could be 2000 feet, which would preclude the development of most of the area designated "SH" in the southeast portion of the East Village. The alternative mitigation, as suggested by the Motorcross Park owner, is that the developer could buy out or relocate the Motorcross facility. The Draft EIR must discuss these mitigation measures.

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M. PUBLIC HEALTH AND SAFETY

1. Impact PHS-2: Natural Gas Compression Facility Impacts : (p. II-61 and IV.M-12). The Draft EIR proposes that a public safety buffer be established between the PG&E natural gas compression facility and other sensitive land uses (residences, schools). The size of the buffer is to be negotiated between the applicant and PG&E, and all residents and commercial occupants within 1000 feet of the facility are to be notified. However, it is not at all clear that a negotiation between the Applicant (who seeks to maximize his development and minimize buying an easement) and PG&E, which wants to operate its facility, would adequately protect the public safety. The EIR should discuss *independent* criteria for how such a buffer zone should be sized to adequately protect the public from risks of fire, explosion, and noise. The County must make its own decision on how to mitigate these impacts. It cannot be left to negotiations between private parties.

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N. AIR QUALITY

1. Impact AQ-1: Air Quality Impacts from Construction: (p. II-54 and IV.K-9). The EIR proposes "standard" dust control measures by project construction contractors to control airborne dust, the first of which is "water all active construction sites at least twice daily." This measure appears "pro forma", but may be considerably more difficult to implement than it first appears. The estimated overall volume of grading for the site is 7.5 million cubic yards on 1,312 acres (p. IV.D-28). The amount of grading would require as much as 1100 acre-feet of water (25% of the total soil volume), depending on the dryness of the soil removed. The soil must be watered properly not only to provide dust control, but to provide for proper compaction to support foundations. The

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present water supply to the site is only 1,000 acre-feet per year for irrigation of the apple orchard and onsite wells for livestock and domestic uses, and its delivery points may be remote from where the grading will take place. The EIR needs to address the feasibility of providing water to water trucks during the grading phases where the long-term water supply and distribution system of all areas of the site has not yet been developed. Otherwise, there is no basis to conclude that this mitigation measure is feasible.

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2. Impact AQ-2: Regional Air Quality Effects: (p. II-54 and IV.K-11) The EIR includes a mitigation for significant, unavoidable impacts to regional air quality due to transportation, that the onsite development of 698,000 sf of community-serving commercial development and 1.2 million square feet of business park (1.86 million square feet total) would reduce the impact by reducing traffic. While for the reasons discussed elsewhere in these comments the project employment will probably not be absorbed as rapidly as the developer is projecting, if one accepts the Keyser Marston analysis of the rate of employment absorption, then the project has not provided adequate employment base as recommended by the Cowell Foundation's own fiscal consultant. The fiscal analysis of the project prepared by Keyser Marston calculated that the project area could reasonably support 2.57 million square feet of commercial/business park development, which would reduce the transportation impacts even more. If the Draft EIR concludes that this is feasible, the project mix of land uses should be adjusted to provide the additional 38% of non-residential uses that were found to be reasonable by the fiscal consultant, particularly because this would provide greater mitigation of a significant and unavoidable impact.

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V. ALTERNATIVES TO THE PROPOSED PROJECT

1. The Infill Development Alternative is dismissed with only cursory analysis.

In view of the strong county policies related to urban sprawl, leapfrog development, agricultural protection, and premature expansion of urban growth into areas without major urban services and infrastructure, it is incumbent upon an EIR for a major remote development, such as Cowell Ranch, to give a serious treatment to the urban infill alternative. Instead, the EIR dismisses the infill development alternative as not consistent with the project objective of creating a largely self-contained community, and a level of amenities not achievable on smaller tracts of land (p. V-38). Also, the EIR finds that the need to purchase numerous smaller infill sites is impractical to accommodate a project as large as the Cowell Ranch development.

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In this conclusion, the EIR has failed to recognize several key points: (1) as stated above the City of Brentwood has recently approved 6,427 residential units in 41 separate projects, so it is not at all infeasible for this number of units to be created on multiple smaller tracts (2) the concept of achieving a self-contained community at Cowell Ranch may itself be infeasible, if only the residential component of the project turns out to be absorbed quickly in the marketplace.

A realistic analysis of the infill alternative should identify the total area of land that are available with appropriate zoning (and other zoning) within existing city limits and city spheres close in to existing major urban transportation corridors (e.g. Pittsburg,

Antioch, Brentwood, Tracy, Livermore) and served by existing infrastructure. The EIR should present a realistic analysis of the amount of additional development that could be accommodated in these areas and relate this to the regional growth projections to determine whether the Cowell Ranch site development could be deferred well into the future or eliminated entirely.

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II. COMMENTS RELATED TO PLANS, POLICIES

The Draft EIR lists under Significance Criteria for Land Use impacts (p. IV.A.31) "Conflict with applicable environmental plans or policies adopted by the agencies with jurisdiction over the project." The EIR lists under each environmental factor a long list of relevant policies and programs. Yet the EIR fails completely to provide an evaluation of the project in relation to each one of these relevant policies and programs, to actually determine whether the project actually conforms or fails to conform to the numerous County and City General Plan policies it lists for each section.

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Some major examples of important policies for which project conformance should be, but was not evaluated, include:

Land Use

Support Downtown as the community's commercial, civic and cultural focus. (City)

The EIR should analyze whether the development of the Cowell Ranch project fosters this policy. If it does not, the EIR should analyze the ways in which the project may frustrate the realization of this policy.

Encourage new development in the downtown and carefully consider the impacts of new commercial development (outside of the downtown) on the viability of the downtown. (City)

The EIR states (Mitigation LU-5, p. IV.A-42) that the impact on downtown businesses could be mitigated to less-than-significant by (a) project commercial zoning limitations and (b) establishment of direct and convenient transit service between the project and downtown Brentwood. This is not an analysis of the impact nor does it demonstrate how implementation of the suggested measures would reduce the impact to less-than-significant. Rather, it is not at all clear that commercial zoning limitations within the project would also have the effect of discouraging project residents from shopping within the project boundaries, which is contrary to a major project objective. Likewise, transit service to downtown Brentwood is also not in keeping with the project's intent to locally serve the commercial needs of its "village" populations. In other words, the entire concept of the Cowell Ranch project may be in conflict with the City's goals of supporting downtown businesses and encouraging new development in the downtown itself. In addition, the EIR should analyze whether the new commercial businesses on the Cowell Ranch will attract existing patrons of downtown businesses to the newer commercial centers and have a detrimental effect on downtown businesses.

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Soils and Geology

Development on hillsides shall be limited to maintain valuable natural vegetation, especially forests and grasslands, and to control erosion. Development on open hillsides and significant ridgelines throughout the County shall be restricted, and hillsides with a grade of 26 percent or greater shall be protected through implementing zoning measures and other appropriate actions (p. IV.D.-24) (County Conservation Element Policy 8-14)

The EIR should overlay the proposed General Plan Amendment (Figure 6) on the Slope Inclinations map (Figure 38) to show how much of the areas of greater than 25% slope are included in areas proposed to be developed.

This General Plan shall discourage urban or suburban development in areas susceptible to high liquefaction dangers subject to the policies in (Policy) 10-20 below, unless satisfactory mitigation measures can be provided, while recognizing that there are low-intensity uses such as water-related recreation and agricultural uses that are appropriate in such areas. (P. IV.D-25) (County Safety Element Policy 10-18)

The Draft EIR needs to explain why the areas of the site which are susceptible to high liquefaction potential are being allowed to develop.

To the extent practicable, the construction of critical facilities, structures involving high occupancies, and public facilities shall not be sited in areas defined as having a high liquefaction potential, or in areas underlain by deposits classified as having a high liquefaction potential. (P. IV.D.-25) (County Safety Element Policy 10-19).

The information presented in the EIR does not allow one to determine which critical, high-occupancy facilities, or public facilities are proposed to be located in areas having high liquefaction potential. The Specific Areas of Concern, by village maps (Figures 44 and 45) show specific locations where geotechnical hazards were mapped, but do not overlay the project on the hazards. A map of the entire site should be provided which overlays the project on the geotechnical constraints. The map should show, on an area rather than a point by point basis, the areas of the development which could be affected by each of the geologic hazards such as liquefaction, gully erosion, landslides, excessively steep slopes etc. In addition, a table should be provided which shows the numbers of residential units and square footages of non-residential uses which are proposed to be located in areas where each geotechnical hazard exists.

Approvals to allow the construction of public and private development projects in areas of high liquefaction potential shall be contingent on geological and engineering studies which define and delineate potentially hazardous geologic and/or soils conditions, recommend means of mitigating these adverse conditions; and on proper implementation of the mitigation measures. (P. IV.D-25)(County Safety Element Policy 10-21).

Since substantial portions of the site are either expansive soils or subject to liquefaction, this policy implies that approval of the majority of the project should be

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delayed until it can be shown that the hazards of building on such soils can be effectively mitigated. The Draft EIR, however, does not demonstrate that such mitigation is feasible. Rather, it recommends essentially to the contrary (p. IV.D-35) that a Geologic Hazards Abatement District (GHAD) be created to deal with ongoing monitoring and maintenance of graded areas as well as geologic/geotechnical mitigations. The recommendation to create a GHAD strongly suggests that the geotechnical problems associated with this property are so severe that it is likely that many of them cannot be solved easily or cost-effectively by standard engineering means. Therefore, it appears that the above policy would discourage approval of the development on a site where such conditions exist.

The Draft EIR goes beyond this by asserting that each one of the individual geotechnical impacts could be mitigated to a less-than-significant level if subsequent detailed geotechnical investigations are done which establish site-specific design and construction criteria. Such future investigations apply to cut slope stability (Mitigation SG-2), fill slope stability (Mitigation SG-3), settlement and differential settlement of fills, expansive soils (Mitigation SG-6), liquefiable soils (Mitigation SG-7), landslides and other slope instabilities (Mitigation SG-8), soil creep (Mitigation SG-10), ground failure (Mitigation SG-12), fault ground rupture (Mitigation SG-13).

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Therefore, none of the geotechnical problems associated with the site have been proven to be mitigatable to a less-than-significant level. In particular, the cost of mitigating these problems through engineering solutions may be so expensive as to effectively preclude the development of certain areas, or to make development so expensive that the cost would substantially interfere with the project's ability to provide affordable housing.

Generally, residential density shall decrease as slope increases, especially above a 15 percent slope (p. IV.D-25).(County Safety Element Policy 10-28).

The EIR should evaluate the degree to which residential density decreases as slope increases (e.g. what is the average density of structures proposed for each slope category on the site). Table 34 -- Summary of Engineering Properties of Onsite Surficial Soils does not contain sufficient information because it should also list the extent (acreage) of each soil type on the site and the number of units proposed to be located on each soil type.

Public Facilities and Services

Infilling of already developed areas shall be encouraged. Proposals that would prematurely extend development into areas lacking requisite services, facilities and infrastructure shall be opposed. In accommodating new development, preference shall generally be given to vacant or under-used sites within urbanized areas, which have necessary utilities installed with available remaining capacity, before undeveloped suburban lands are utilized (County Land Use Element Goal 3-8) (p. IV.F-11).

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The EIR does not evaluate how the project meets or fails to meet, this policy. In particular, the analysis in the EIR shows that the project area is lacking in most urban services necessary to serve a project of this scale (e.g. water supply, sewage disposal,

schools, fire protection services, police protection services and equipment). The EIR should analyze why a proposal such as this which *would* extend development into an area lacking requisite services, should be approved ahead of vacant or under-used sites in existing urban areas, and why a massive new development in eastern Contra Costa County is appropriate before infill of areas much closer to the urban core has been completed. In the absence of this analysis, the project is inconsistent with Goal 3-8 of the Land Use Element of the County General Plan; this is a significant adverse impact.

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The financial impacts of new development or public facilities should generally be determine during the project review process and may be based on the analysis contemplated under the Growth Management Element or otherwise. (County Public Facilities/Services Element, Policy 7-4).

The Draft EIR provides no financial analysis of the impacts of the new development or public facilities and does not mention the Growth Management Element elsewhere in the section. This is inconsistent with the General Plan.

Opportunities for using reclaimed, recycled and treated wastewater shall be identified and developed in cooperation with sewer service and water service agencies (County Conditions for a 21st Century Community, Reclaimed Water Section, Policy 2)

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The Draft EIR needs to fully analyze the opportunities for using reclaimed wastewater to irrigate the golf course and other landscaping on the project site, as discussed in detail above under Impact PF-1: Treated Water Supply.

* * *

CONCLUSION

The foregoing analysis has shown that the Cowell Ranch project has numerous significant impacts on land use, soils and geology, biological resources, public services and facilities (local government), air quality and public health and safety, which are not, as asserted in the Draft EIR, mitigated through fully identified, feasible mitigation measures, to a level of insignificance. Many of the so-called mitigation measures in the EIR are speculative and would have a high associated cost which could make the provision of a balanced community containing affordable housing infeasible. In addition, the project appears to be in conflict with numerous local general planning goals and policies at both the County and City level, although the extent of such conflicts with individual policies was not analyzed in the Draft EIR. The EIR must be revised and expanded to remedy the deficiencies discussed in detail in these comments.

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Sincerely yours,

Karen G. Weissman, Ph.D.

Karen G. Weissman, Ph.D.
Principal

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KAREN G. WEISSMAN, PH.D.

Dr. Weissman has been a principal of Thomas Reid Associates since she completed her doctorate in late 1972, and Vice-President of the firm since 1982. Her areas of expertise include ecology, population biology, demography, land use, governmental planning and policies and regional environmental issues. As a principal of the firm, Dr. Weissman provides public representation of many of her cases in the EIR process. In the firm's numerous cases for the California Public Utilities Commission, she has provided expert witness testimony in administrative law proceedings.

Dr. Weissman has participated in nearly all of the firm's past work, and plays a role in the conceptualization, planning and execution of all jobs. She has served as client liaison for technical information transfer and review on numerous cases, and has expert familiarity with the methods of data collection and analysis from diverse sources, including governmental agencies, universities, public service organizations, public and private interest groups, and private industry and commerce. Dr. Weissman has primary responsibility for administering subcontracts and assuring the delivery of acceptable work products by subcontractors.

Current case work includes the Santa Clara Valley Water District Sediment/Erosion Control and Vegetation Management Program EIRs and the Mount Washington Cellars and Resort Village EIR. Recently completed studies include the Brisbane General Plan EIR, the Pacifica Wastewater Management Plan EIR, and the Grassland Water District Land Planning Guidance Study. Dr. Weissman was Case Manager and Principal Investigator for the Claratina/Coffee and North Beyer Park Reorganization EIR, Gilroy Hot Springs Resort EIR, Gilton Solid Waste Transfer Station and Outdoor Resorts Recreational Vehicle Park EIR. She has also been Principal Investigator for numerous other TRA studies including the Farm Labor Housing Project EIR, Devers-Serrano Transmission Line EIS/EIR.

Dr. Weissman's expertise encompasses up-to-date knowledge of the requirements of CEQA and other environmental legislation and case law as they pertain to environmental documents. She is frequently hired by private and public clients and has provided detailed, formal technical review of approximately 60 EIR's and other CEQA/NEPA documents prepared by others, including industrial projects, "new towns" other mixed-use developments, high-voltage electrical transmission lines, sewage sludge disposal, and a solid waste/hazardous waste transfer station.

Projects reviewed include the Dougherty Valley General Plan EIR (Contra Costa County), Mountain House new town EIR (San Joaquin County), Diablo Grande and Lakeborough New Town EIRs (Stanislaus County), Renaissance Residential Project EIR (San Jose), Evergreen Specific Plan (San Jose), O'Connell Ranch Annexation/Rezoning (Gilroy), Franklin Canyon residential project (Hercules), Signal Energy Biomass Plant EIR (Shasta County), United Technologies Rocket Motor Facility EIR (Merced County), Metropolitan Oakland International Airport Development Plan EIS/EIR and San Jose International Airport Master Plan Update Draft EIR.



A biologist by training, Dr. Weissman has done biological reconnaissance and impact assessment of projects ranging from oil and gas pipelines, transmission lines, marine terminals for oil and liquid natural gas, port expansion, landfill expansion and residential subdivisions. She has worked closely with wildlife agencies in the study of impacts on rare or endangered species in California and other parts of the western region.

Dr. Weissman has had a central role in the firm's many endangered species conservation planning studies. She was Case Manager for the Southern San Joaquin Valley Habitat Preservation Study (1986-89) and principal author of the Coachella Valley Fringe Toed Lizard Habitat Conservation Plan and EIS/EIR (1984-1985). She provided expertise in theoretical ecology for the Biological Study for Endangered Species and Habitat Conservation Plan for San Bruno Mountain.

Educational Background and Honors

A.B. Zoology, University of California, Los Angeles, *magna cum laude*, with Highest Departmental Honors, elected to Phi Beta Kappa
Ph.D. Biology, Stanford University, Stanford, CA
National Science Foundation Graduate fellowship

Professional Membership

American Association for the Advancement of Science



DRAFT
Environmental Impact Report

City of Emeryville

CHIRON
DEVELOPMENT PLAN EIR



February 14, 1995

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TABLE III.H.5: PROJECTED TOTAL PROJECT AIR POLLUTANT EMISSIONS, AT COMPLETION OF EACH PHASE

Pollutant	Construction Sources	Emissions (lbs/day)				Alameda County/c/	As a % of County/d/
		Mobile Sources	Stationary Sources	Total Project/a/	Significance Threshold /b/		
Phase 1 (Construction)							
Carbon monoxide	318	0	0	318	550 /e/	1,020,000	0.03
Hydrocarbons	34	0	0	34	150	378,000	<0.01
Nitrogen oxides	<u>258</u>	0	0	<u>258</u>	150	218,000	0.12
Sulfur oxides	26	0	0	26	150	28,000	0.09
Particulate (PM ₁₀)	<u>346</u>	0	0	<u>346</u>	150	178,000	0.19
Phase 1 Operation (plus Phase 2 Construction)							
Carbon monoxide	318	2,157	80	2,555	550 /e/	1,020,000	0.25
Hydrocarbons	34	<u>186</u>	6	<u>226</u>	150	378,000	0.06
Nitrogen oxides	<u>258</u>	<u>253</u>	<u>613</u>	<u>1,124</u>	150	218,000	0.52
Sulfur oxides	26	17	2	45	150	28,000	0.16
Particulate (PM ₁₀)	<u>346</u>	63	12	<u>421</u>	150	178,000	0.24
Phases 1 and 2 Operation (plus Phase 3 Construction)							
Carbon monoxide	318	2,090	153	2,561	550 /e/	920,000	0.28
Hydrocarbons	34	183	12	<u>229</u>	150	364,000	0.06
Nitrogen oxides	<u>258</u>	304	43	<u>605</u>	150	224,000	0.27
Sulfur oxides	26	23	3	52	150	30,000	0.17
Particulate (PM ₁₀)	<u>346</u>	91	24	<u>461</u>	150	196,000	0.24
Phases 1, 2, and 3 Operations (Construction Complete)							
Carbon monoxide	0	1,627	274	1,901	550 /e/	820,000	0.23
Hydrocarbons	0	135	21	<u>156</u>	150	318,000	0.05
Nitrogen oxides	0	<u>385</u>	<u>256</u>	<u>641</u>	150	26,000	0.29
Sulfur oxides	0	36	5	41	150	32,000	0.13
Particulate (PM ₁₀)	0	140	53	<u>193</u>	150	238,000	0.08

/a/ Underlined values indicate an exceedance of the significance threshold.

/b/ Significant emission rate identified by the BAAQMD in its *Guidelines for Assessing the Impacts of Projects and Plans*, 1991.

/c/ Alameda County emissions represent annual average (daily) emissions from the most recent available inventory (ARB, 1993) and projected to future years based on predicted trends (BAAQMD, 1993).

/d/ Shows projected project peak daily emissions as a percentage of Alameda County annual average daily mobile emissions.

/e/ Only constitutes a significant impact for stationary sources or if the emission results in a violation of the ambient roadside CO standard from mobile emissions.

SOURCE: Environmental Science Associates, 1994

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